LEGISLATION.

THE NANJANAD VELLALA BILL.

PRESIDENT: We will now proceed to the consideration of the Nanjanad Vellala Bill.

Clause 31.

MR. M. SIVATANU PILLAI (*Tovala*): Sir, before I move the amendment, I wish to express my sincere thanks to the President for having granted me permission to move this amendment, suspending the Standing Order regarding notice of motions.

I beg to move that the following be substituted for Clause 31 of the Bill as revised by the Select Committee:—

"*Every member of a tarwad shall be entitled on division to so much of the tarwad property as will fall to his or her share if—*

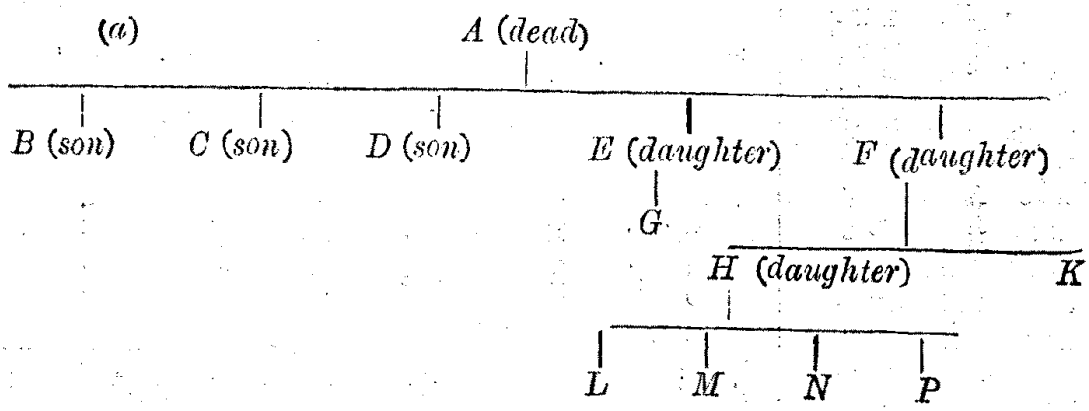
(*1*) *One-half of the properties were divided per capita among all the members of the tarwad living at the time of division, and*

(*2*) *the other half were divided per stirpes, i. e., among the male children then living of the common ancestress and their sisters, the thavazhi of each daughter being entitled as a whole to the share of such daughter.*

Provided that, if any daughter of the common ancestress were dead, the thavazhi of such daughter will take what such daughter would be entitled to if she were alive at the time of division.

Provided further that, if the common ancestress were alive at the time of division, she would be entitled to a share equal to that of a child of hers."

Illustrations.



If, in a family composed as indicated in the above table, the value of the tarwad property were Rs. 24,000, one-half, i. e, Rs, 12,000, will be divided equally among B, C, D, E and F, each getting Rs. 2,400. The other half will be divided into twelve equal shares among B to P, each of them getting Rs. 1,000. Thus B, C and D will each get Rs. 3,400. The fourth share of Rs. 2,400 will be divided equally between E and G, and each of them will get Rs. 1,200 therefrom plus Rs. 1,000 being the share per capita or Rs. 2,200 in all. F and K will each get one-third of the fifth share of Rs. 2,400 or Rs. 800 therefrom plus Rs. 1,000 being the share per capita, or Rs. 1,800 in all. H, L, M, N, and P will each get one-fifth of Rs. 800 or Rs. 160 therefrom plus Rs. 1,000, being the share per capita, or Rs. 1,160 in all,

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(b) If, in illustration (a), A also were living, one-half will be divided into six shares, each getting Rs. 2,000, and the other half into thirteen shares. Thus A will get Rs. 2,000 plus one-thirteenth of Rs. 12,000.

(c) If, in illustration (a), A and C were dead, Rs. 12,000 will be divided into four shares and the other Rs. 12,000 into eleven shares; or B and D will each get Rs. 3,000 plus one-eleventh of Rs. 12,000.

(b) If, in illustration (a), F were dead at the time of partition, K will be entitled to get one-half of Rs. 2,400 plus one-eleventh of Rs. 12,000.

I admit, Sir, that the amendment is rather cumbrous. But, it endeavours to cover all cases of partition in reference to a big *tarwad* consisting of numerous members. I need hardly point out to this House that this amendment is the result of a compromise. The members of this House will remember that, at the time when Mr. Subrahmanya Pillai was moving an amendment to refer the report of the Select Committee to a fresh Select Committee, there was a good deal of discussion and that it was finally decided, in consultation with certain members on this side of the House, that a compromise should be effected admitting the principles of both the opposing parties. As a result of that decision, this amendment has been arrived at both by the co-opted members as well as the representatives coming from the Nanjanad Vellala community. The amendment has been arrived at with the help, active support and advice of distinguished members on this side of the House. I may just remind the House of the discussion that took place here at the time the Nayar Regulation Amendment Bill was taken into consideration. The discussion was with reference to a Section binding on non-Nayar husbands of Nayar women. There was a good deal of discussion between the members who had opposing views, and the question was sufficiently threshed out from all points of view. Ultimately, all the principles urged by the opposing parties were recognised by the members of this House, and the parties themselves settled the question and brought about a compromise. In persuading me to accept the compromise, this instance was pointed out to me, with a great deal of force, by the elder members on this side of the House, so much so I was rather inclined to accept the compromise with great pleasure. Further, I was convinced of the justifiability of my accepting this compromise when I found out that, if at all I erred in this, I erred in good company. Mr. Subba Aiyar, the distinguished and esteemed Deputy President of this House, referred to the principle underlying the compromise and the method to be adopted in bringing it about.

One of the members of the Select Committee had made special reference to the fact that the method of partition provided in the draft Bill, was opposed very strongly by a certain section of the community and that, in view of the fact that this legislation was intended for that community, it was better to reconcile the opposing views and bring about an amicable settlement recognising the principles underlying the views of the opposing parties. Such of the members of this House as had had the privilege of being members in the last Council also can very well remember that Mr. Paul V. Daniel was a

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[Mr. M. Sivatanu Pillai.]

member of the last Council as the representative of the Agastisvaram taluk where a respectable portion of my community reside. Mr. Paul V. Daniel was also a member of the Select Committee. He submitted a special note along with the report of the Select Committee. He says:

"I feel bound to record herein that there is a considerable number of Nanjanad Vellalas who are opposed to *per capita* partition. Though the Courts have been applying the principles of *marumakkathayam* law to the community, there are among them certain usages, ceremonies and circumstances which would show that they have been strongly under the influence of *makkthayam* law. They were either not wholly stripped of *makkathayam* or they did not follow *marumakktahayam* in its entirety. A compromise then will be found suitable. My sincere conviction is that this is possible if one-half of the existing *tarwad* property is divided *per stirpes* and the other half divided *per capita*. I believe this may be done when the Bill passes through the Council."

Sir, I wish to say that Mr Daniel is a lawyer who has had behind him a long period of practice in the Nagercoil District Court before which the members of this community have been making peculiarly frequent appearances. Mr. P. K. Narayana Pillai, who was also a member of the Select Committee, says in his special note in the Select Committee's report: —

"And lastly, the question of partition is not quite free from difficulty. On this subject, the community appears to be split into two camps as demonstrated by the deputations to the Select Committee. A *via media* satisfying the community as a whole would be a welcome course to adopt. In a matter like this, one should hesitate to balance decisions of Judges against any well-ascertained consensus of opinion prevailing in the community concerned. In the absence of any such unanimity, the law has to be shaped in the light of other considerations; for, as Lord Haldane observes with respect to law, 'If its full significance is to be appreciated, larger conceptions than those of the mere lawyers are essential—conceptions which come to us from the moralist and the sociologist and without which we cannot see fully how the genesis of law has come about.'."

Therefore it is, Sir, that I submitted to the House that, even if I am going to err in accepting the compromise, I would only be erring in good company. Mr. Daniel, a member of the last Council and a gentleman sufficiently acquainted with the customs of the community, and Mr. P. K. Narayana Pillai, a lawyer who is expected to have come across frequently with cases relating to the Nanjanad Vellala community, have given their opinions in regard to this question of partition. They say that there was very strong opposition to the provision, relating to partition, in the draft Bill, and that they themselves were in a difficult situation in giving their own opinion one way or the other. Mr. P. K. Narayana Pillai says:—

"It will be rather desirable and most salutary to attempt to find out a *via media* between the opposing views."

He gives an irrebuttable authority showing that, unless there is a consensus of opinion with reference to the adoption of a particular course, legislation ought not to attempt to adopt a certain course which is not at all liked and desired by the community.

In short, Sir, not only Mr. P. K. Narayana Pillai, an experienced lawyer, but also Mr. Daniel, an ex-member of the Agastisvaram taluk

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who has had enough experience of the customs, manners and tastes of my community has given his hearty support to this compromise. At the same time, a good many of my friends, who have had enough experience in law courts handling cases not only with reference to *Makkathayam* and *Marumakkathayam* laws but also a few cases at least with reference to the Nanjanad Vellala community, have given their support.

So, Sir, I have very great pleasure in submitting this amendment for the consideration of the House. At the same time, I am indebted to the esteemed members on this side of the House for persuading me to accept this compromise. Because the compromise combines within itself a very happy combination of the principles of the opposing views, and I hope that the amendment will be heartily accepted by this House, thereby giving satisfaction and at the same time great happiness to the community which is looking forward with so much anxiety for this happy consummation.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഒന്നു പക്ഷതി താസ്സഴിവീതവും ഒന്നുപക്ഷതി ആരംവീതവുമായ ഈ മദ്ധ്യസ്ഥനിലപാടുവേ നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തിനു തൃപ്തികരമായിരിക്കുമോ എന്നറിയാമോ?

MR. M. SIVATANU PILLAI (*Tovala*): I believe I can take up the responsibility of satisfying my community on the point.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഈ അഭിപ്രായം ഇവിടെ വന്നതിൽപിന്നീടു തന്നെയാണോ സ്വീകരിക്കാനിടയായതു്?

MR. M. SIVATANU PILLAI (*Tovala*): No: even before I left Nagercoil for coming to this Council, I had been talking to ever so many members of my community and many of them, who are responsible members, suggested that even a compromise would rather be accepted by them.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അങ്ങിനെയാണെങ്കിൽ ആദ്യമേ താസ്സഴിഭാഗത്തിനു വാദിക്കേണ്ട ആവശ്യമില്ലായിരുന്നെല്ലോ? അതുകൊണ്ടു ഈ അഭിപ്രായത്തോടു ഭൂരിപക്ഷം ആളുകളും ചേരുമെന്നു എങ്ങിനെനിശ്ചയിക്കാം?

MR. M. SIVATANU PILLAI (*Tovala*): I believe, even if there is no such majority, I can persuade them to accept it.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): എന്റെ സ്നേഹിതൻ മിസ്റ്റർ ശിവതാണുപിള്ള നമ്മുടെ കമ്മ്യൂനിറ്റിയിൽ—

MR. M. SIVATANU PILLAI (*Tovala*): I do not know whether the member wants to put a question to me.

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MR. S. SUBRAHMANYA PILLAI (*Co-opted*): Yes. നമ്മുടെ ഇടയിൽ ലായറായി മിസ്റ്റർ അഴകപ്പാപിള്ള നാഗർകോവിലിൽ വ്യവഹരിക്കുന്നതായി അറിയാമോ?

MR. M. SIVATANU PILLAI (*Tovala*): അറിയാം.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഈ സംഗതി എന്റെ സ്നേഹിതൻ അദ്ദേഹവുമായി ആലോചിച്ചിട്ടുണ്ടോ?

MR. M SIVATANU PILLAI (*Tovala*): ആവശ്യമില്ല.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): അദ്ദേഹം സമുദായത്തിൽ ഒരു ബഹുമാനപ്പെട്ട ആളല്ലയോ?

MR. M. SIVATANU PILLAI (*Tovala*): അദ്ദേഹത്തെപ്പറ്റി നമ്മുടെ സമുദായത്തിൽപ്പെട്ട ആളുകൾക്കുതന്നെ തീരെ ബഹുമാനമില്ല.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I rise to a point of order. May I know if the opinion of individual members outside the Council is relevant to the consideration of the question before the House?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): അദ്ദേഹം ഇതിൽ ആളോഹരിഭാഗക്കാരനാണെന്ന് നിങ്ങൾ ധരിച്ചിട്ടുണ്ടോ?

PRESIDENT: That is out of order.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഞങ്ങളുടെ കമ്മ്യൂനിറ്റിയിലുള്ള ആളുകളുടെ അഭിപ്രായം എങ്ങനെ എന്നറിയാനുള്ള ചോദ്യമാണ്.

MR. M. SIVATANU PILLAI (*Tovala*): That question was answered by me when Mr. Kumara Pillai asked me.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): കാംപ്രൈമെസ് ആലോചനയിൽ ഞങ്ങളുടെ സമുദായക്കാരെ മാത്രമേ ബന്ധിച്ചിട്ടുള്ളോ അതല്ല വേറെ ആളുകളെക്കൂടി ബന്ധിച്ചിട്ടുണ്ടോ എന്നറിയാനാണ്.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I am not sure whether such questions can be asked. I think that only such questions that arise in the speech and require an explanation may be asked.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഈ കൌൺസിലിൽ മെംബറായിരുന്ന മിസ്റ്റർ ചിദംബരതാണുപിള്ള ഇവിടെ ഉള്ളതായി അറിയാമോ?

PRESIDENT: You can reserve all that when you are making a speech. At present you can only ask questions directly arising out of the member's speech preceding. You must have no tendency to cross-examine, please.

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MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): Sir, I rise to second the amendment moved by my friend Mr. Sivatanu Pillai. I have, at the very outset, to clear the misapprehension, entertained even in some responsible quarters, that I am a Nanjanad Vellala. I submit, Sir, I am not; I am a Pandi Vellala, *i. e.*, a follower of pure *makkathayam* system.

The Bill, Sir, is the burning topic in Nanjanad, "the stronghold of the community", as the Enquiry Committee put it. Ever since the representaion made during the third session of the Assembly, the subject has been threshed out in its various aspects. The strength of the community is only 23,000 and more than ninety per cent. of them inhabit the taluks of Agastisvaram and Tovala. This is the third attempt by the Government at social legislation. It cannot but be conceded that the question of partition is the most important, and on that there are at least two schools, and they are "sharply divided" as Mr. Paul V. Daniel said.

Now, Sir, a bird's-eye-view of the past. After the representations during the third session, Mr. Subrahmanya Pillai, during the sixth session of the Assembly, brought forward the subject and submitted the famous memorial signed by 1,600 persons which led to Mr. Narayana Menon's Committee. The Bill of 1913, which was the result of that Committee's report was not comprehensive and hence was withdrawn in 1920 after the Select Committee stage. The agitation continued. During the fifteenth and the sixteenth sessions of the Assembly, the question was again pressed. In reply to an interpellation made by Mr. Subrahmanya Pillai in the Council, the Government consented to the appointment of a Committee and the Raja Raja Varma Committee was the result. Their report was submitted in 1922. Again, the Bill has come up for consideration.

The Select Committee's report indeed shows that they have taken great pains. The large majority of the parts or chapters have given great satisfaction to the community. However, I must submit that, on Part III, that is on Partition—I submit this, Sir, with very great respect to the learned members who constituted the committee—there is a volume of opinion against it. Of course, this submission applies to the Enquiry Committee as well. There is the small conservative school of "no partition." There is also the radical school of "individual partition." Between them lies the "*Thavazhi* school." There is also another school which may be called the "compromising school" represented by Mr. Paul V. Daniel and Mr. P. K. Narayana Pillai. Of course, Mr. Raja Raja Varma Committee's Draft Bill provides for individual partition; that is, at the most only a significant circumstance. The argument that the majority view is expressed by the election is misleading. Firstly, we know what an election is. Secondly, voters are *karanavans* mainly. Thirdly, there was no public manifesto before standing for election by both the members. Fourthly, all adults were not voters. In all cases, an election result is not an unerring index of opinion. I do concede that it is the practical scheme generally followed. But it is

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[Mr. S. Piraviperumal Pillai.]

to be understood that, in spite of the vigorous activities of the "*per capita*" school, the elections have so resulted, especially soon after the "dissenting minute," if I may so call it, of Mr. Subrahmanya Pillai. However, I do not agree that the partition question was the plank on which the election was fought, nor do the election results show the majority view. To my mind, it seems that the view of the majority can be accurately ascertained only by a referendum which may perhaps in this case be not difficult, considering the smallness and the compactness of the community. However, a lot of difficulty and controversy is averted by compromise.

The present amendment is the offspring of a compromise effected between the two hostile schools by persistent persuasions of the Deputy President and some other real friends of the community. The superstructure of a Bill built upon the foundation of compromise will be a lasting monument of peace and amity. Compromise is a sure sign of the practical wisdom of the leaders of the two hostile camps. It has saved the Council from much heat and turmoil. It is a sermon to the future and other communities. When the leaders of a community which forms not even half per cent. of the population of Travancore have bridged their gulf of difference of views, I am sure the members of the Council, who belong to other communities, will not interfere with it. On the other hand, I am sure they would welcome it whole-heartedly. No considerations other than the real welfare of the generality of the community should interfere in our solemn deliberations. Sir, I support the amendment with all my heart.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഇപ്പോൾ കൊണ്ടുവന്നിട്ടുള്ള പ്രമേയത്തെ ഞാൻഒരിക്കലും പിൻതാങ്ങുന്നില്ല. ആ രാജിയിൽ എന്റെ അനുമതിയോ അഭിപ്രായമോ ഉണ്ടെങ്കിൽ അതിനെ പിൻവലിക്കുന്നതിനു എനിക്കു അവകാശമുണ്ടെന്നു ആദ്യമായി പ്രസ്താവിക്കുന്നു.

MR. M. SIVATANU PILLAI (*Tovala*): മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള ഒരു പുതിയ സിലക്ട് കമ്മിറ്റി വേണമെന്നുള്ള പ്രമേയം പിൻവലിക്കുന്ന സമയം സമ്മതിച്ചിട്ടുണ്ടോ?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഞാൻ അതിനെപ്പറ്റി പ്രസ്താവിക്കയാണ്. എൻകമയറി കമ്മിറ്റിയിലും സിലക്ട് കമ്മിറ്റിയിലും മെമ്പറായി ഒപ്പിട്ടിട്ടുള്ള മിസ്റ്റർ എം. സുബ്രഹ്മണ്യപിള്ള, എൻകമയറി കമ്മിറ്റിയിൽ ആദ്യമായിട്ടു ഭാഗം വേണ്ടെന്നു അഭിപ്രായപ്പെടുകയും രണ്ടാമതു എൻകമയറി കമ്മിറ്റിയിൽ അദ്ദേഹം പർട്ടിഷൻ വേണമെന്നു സമ്മതിച്ചു റിപ്പോർട്ടു പാസ്സാക്കി അയക്കയും അതിനുശേഷം സിലക്ട്കമ്മിറ്റിയിൽ വന്നതിൽ പിന്നെ പ്രൊട്ടസ്റ്റിർപ്പിസ് എന്നുള്ള കപടതാവഴി വേണമെന്നു് ആവശ്യപ്പെടുകയും—

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MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*): I would like to correct the member. Even at the time of the introduction of the Bill, I was advocating *per stirpes* system.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : എൻകപയറി കമ്മിറ്റി അതിന്റെ റിപ്പോർട്ടു വച്ചതിന്റെ ശേഷം അതിൽ അദ്ദേഹം പെർസ്റ്റിർപ്പിസ് വേണമെന്നഭിപ്രായപ്പെട്ടിട്ടുണ്ട്. പിന്നീടു തിങ്കളാഴ്ചയും അതു തന്നെ വേണമെന്നു വാദിച്ചു. ചൊവ്വാഴ്ചയും അതു തന്നെ വാദിച്ചു. എന്റെ സഹിതൻ മിസ്റ്റർ വേലുപിള്ള എൻകപയറി കമ്മിറ്റിയിൽ പെർസ്റ്റിർപ്പിസ് തന്നെ വേണമെന്നു മൊഴികൊടുത്തു. അതിനു ശേഷം പെർകാപ്പിറ്റാ വേണമെന്നു മെമ്മോറിയൽ കൊടുത്തു. ഇപ്പോൾ അദ്ദേഹം ഞങ്ങളുടെ എതുകക്ഷിയോടു ചേരാൻ ഇടയായി.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): തിങ്കളാഴ്ച മെംബർ കാസ്റ്റുമൈസ്സിനു സമ്മതിച്ചിട്ടുണ്ടോ?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : അതിനെ പിൻ വലിക്കാനാണു പോകുന്നതു്.

രാജരാജവമ്മ കമ്മറ്റിയിലും ഒരു സഭയിലും ഒരു വിഷയത്തെ സംബന്ധിച്ചു കോവാപ്പു ചെയ്യാനുള്ള ഭാഗ്യം എനിക്കുണ്ടായി. അതു കൊണ്ടാണു് എൻകപയറി കമ്മിറ്റിയിലെ മുഴുവൻ സംഗതിയും അറിയാനിടയായതു്. അവിടെ നാലു സാക്ഷികളെ വിസ്തരിച്ചിട്ടുണ്ട്. അതിൽ മൂന്നു പേർ മാത്രമേ അനന്തിരവന്മാരുണ്ടായിരുന്നുള്ളു. മൂന്നു പേർ കാരണവന്മാർക്കു വേണ്ടി പെർസ്റ്റിർപ്പ്സ് എന്നുള്ള കപടതാവഴി ഭാഗത്തിനു വേണ്ടിയാണു് മൊഴി കൊടുത്തതു്.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*) : അപ്പെൻഡിക്സ് ഒ-ൽ പറഞ്ഞിട്ടുള്ളതു മെമ്പറിനറിയാമോ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I know what the member is referring to? He is reading from a newspaper, Sir.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): അതു പ്രമാണത്തെപ്പറ്റി പറയുന്ന ഭാഗമാണ്. അതിനെപ്പറ്റി പിന്നീടു വിവരിച്ചുകൊള്ളാം.

ഈ സാക്ഷികളെ വിസ്തരിച്ചപ്പോൾ മൂന്നു കാരണവന്മാർ ഉണ്ടായിരിക്കെ രണ്ടു പേർ മാത്രമാണ് പെർക്യാപ്പിറ്റായ്ക്കനുസരിച്ചു മൊഴി കൊടുത്തതു്. അതുകൊണ്ടു ഈ കമ്മീനിറ്റിയുടെ സ്ഥിതിവിചാരണകൊണ്ടല്ലാതെ അറിയാൻ സാധിക്കയില്ല.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I rise to a point of order. The original motion of Mr. Subrahmanya Pillai to refer back the Bill to a Select Committee was withdrawn, and

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[Mr. K. C. Mammen Mappillai.]

the House permitted the withdrawal of the motion on the specific understanding that there would be a compromise. Can any member of the House recede?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): മിസ്റ്റർ ശിവതാണുപിള്ള കൊണ്ടുവന്നിട്ടുള്ള തത്വത്തെ സ്വീകരിച്ചുപറയേണ്ട വിഷയം മെംബർ പറഞ്ഞിട്ടില്ല.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): അതുതന്നെയാണ് പറയുന്നത്. രാജി സമ്മതിച്ചിട്ടുണ്ടെങ്കിൽ പിൻവലിക്കാനുള്ള അവകാശം കൂടി തരണമെന്നാണ് ഞാൻ താഴ്മയായി പ്രാർത്ഥിക്കുന്നത്. ഇവരെല്ലാം യാതൊരു പ്രാർത്ഥനയുംകൂടാതെയാണ് അഭിപ്രായങ്ങൾ മാറിയിട്ടുള്ളത്.

MR. C. P. THOMAS (*Nominated*): മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള നിങ്ങൾ കാമ്പ്രൊമൈസ്സ് ചെയ്യാമെന്നു പറഞ്ഞതിനേൽ അല്ലേ പിൻവലിച്ചത്?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ചെവ്വാഴ്ച ഈ കൌൺസിലിൽവന്നപ്പോൾ ചില സ്നേഹിതന്മാർ ഒക്കെക്കൂടി പെർക്യൂപ്പിറേയും പെർസ്റ്റിർപ്പിസും വേണമെന്നുള്ള വാദത്തിലാണ ഇരുന്നത്. അങ്ങനെ വരുമ്പോൾ പത്തൊ അൻപതൊ ശേഷകാരുള്ള കുടുംബത്തിൽ അനന്തിരവക്കു ഒന്നും കിട്ടാതെ വരും. മരുമക്കത്തായ തറവാട്ടിൻറെ നടപ്പും തത്വവും അനുസരിച്ചു ജീവനാംശവും മറ്റും കൊടുക്കുന്നതുപോലെയായിരുന്നാൽ വലിയ കഷ്ടമായിതീരും എന്നു ഞാൻ പറഞ്ഞു ബോദ്ധ്യപ്പെടുത്തി. എൻറെ സ്നേഹിതൻ മിസ്റ്റർ വേലുപ്പിള്ളയും അങ്ങനെ തന്നെ പറഞ്ഞു ബോദ്ധ്യപ്പെടുത്തി. എൻറെ സമുദായത്തിനു ദോഷംകൂടാതെ ഈ സബ്സ്റ്റിൻറെ അനുവാദത്തോടുകൂടി ൨,൦൦൦ പേക്കു ഉത്തരം പറയേണ്ടവനാണ് ഞാൻ. എൻറെ മനസ്സിനു വലിയ ചാപല്യം തട്ടി.

PRESIDENT: I think the member had better speak to the amendment and not go into personal matters.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): സെലക്ട് കമ്മറ്റി റിപ്പോർട്ട് പെർക്യൂപിറേറാക്കുവേണ്ടി പരിശ്രമിക്കയാണ് ചെയ്തിട്ടുള്ളത്. ആ റിപ്പോർട്ടുവന്നതിനുശേഷം എൻറെ സമുദായത്തിനോടു ചോദിച്ചതിൽ അതു ഒരിക്കലും സ്വീകരിക്കാൻ പാടില്ല. വലിയ ചതിവാണെന്നു പറഞ്ഞു. അതിനു ഒരു ദൃഷ്ടാന്തം പറയാം. നാഴി കടുകു വാങ്ങിച്ചു എങ്ങനെ അളക്കണമെന്നുള്ള ചോദ്യംവന്നപ്പോൾ ചരിച്ചുവച്ചു അളക്കണമെന്നു ഒരു മദ്ധ്യസ്ഥൻ പറഞ്ഞു. അങ്ങനെ അളക്കുമ്പോൾ കടുകു നാഴിയിൽ കാണുകയില്ല. അങ്ങനെയുള്ള അബദ്ധമാണ് ഇപ്പോൾ

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എനിക്കു നേരിട്ടിരിക്കുന്നതു്. തായ്വഴിയായിട്ടു വരുമ്പോൾ മക്കത്തായം കിട്ടുകയില്ല. എനിക്കു ഒരു പ്രാർത്ഥനയുള്ളതു് ഞാൻ ഭീഷണികൊണ്ടോ എന്റെ മനസ്സിന്റെ ചാപല്യംകൊണ്ടോ സമ്മതിച്ചിട്ടുള്ളതിനെ പിൻവലിക്കാനായിട്ടു അനുവാദം തരണമെന്നാണു്. എന്റെ സമുദായത്തിൽ ഉള്ള ൨൭,൦൦൦ പേരുടെ പ്രതിനിധിയെന്ന നിലയിൽ ഈ അമൻറുമെൻറിനെ ഖണ്ഡിക്കാൻ എനിക്കനുവാദം തരണം.

വിചാരണനടത്തീട്ടുള്ളതു ശരിയായിപോയി എന്നാണു് ഏതുകക്ഷികളുടെ അഭിപ്രായം. ആറുലക്ഷത്തോളം വരുന്ന ഈഴവസമുദായത്തിൽ വിസ്തരിച്ചിട്ടുള്ള സാക്ഷികളുടെ ക്രമം നോക്കുകയാണെങ്കിൽ നൂറു സാക്ഷികളെ ഞങ്ങളുടെ കമ്മൂനിട്ടിയിൽനിന്നും വിസ്തരിച്ചാൽ മതി. ഏകദേശം ആറുലക്ഷത്തോളം വരുന്ന നായർസമുദായത്തിൽനിന്നും നായർഗ്രൂപ്പേഷനുവേണ്ടി വിസ്തരിച്ചിട്ടുള്ള സാക്ഷികളുടെ ക്രമം നോക്കുകയാണെങ്കിൽ ൪൨ സാക്ഷികളെമാത്രം വിസ്തരിച്ചാൽമതി. ഞങ്ങളുടെ സമുദായത്തിൽനിന്നും നൂറ്റമ്പത്തഞ്ചു സാക്ഷികളെ വിസ്തരിച്ചിട്ടുണ്ടു്. അതിൽനിന്നും ശരിയായ തെളിവെടുത്തിട്ടുണ്ടെന്നു കാണാം. അതിൽ ഭൂരിപക്ഷവും പെർക്യാപ്പിറാക്കുവേണ്ടി മൊഴികൊടുത്തിട്ടുണ്ടു്. പെർസ്റ്റർസ്സിനു ൪൭ പേർ മാത്രമാണു് മൊഴികൊടുത്തിട്ടുള്ളതു്. മരുമക്കത്തായമെന്നും, തറവാടെന്നും ഉള്ള തത്വമനുസരിച്ചു ഓരോരുത്തക്കും ജീവനാംശം കൊടുത്തു പട്ടിണികിടക്കാനിടയാക്കുന്ന ഒരു നിയമം പാസ്സാക്കി അയക്കുന്നതു് വലിയ സങ്കടമാണു്. ഒരു പ്രതിനിധിയുടെ ചുമതല വളരെ വലുതാണു്. ഈ മഹാസഭസ്സിൽ ഞങ്ങളുടെ സങ്കടം അറിയിച്ചു നിങ്ങളുടെ മനസ്സിനെ അലിച്ചു ഞങ്ങൾക്കു ഗുണമുണ്ടാകത്തക്കവണ്ണം ഒരു നിയമം പാസ്സാക്കാനാണു് എന്റെ പ്രയത്നം. ഞങ്ങളെ ഈ നിയമംകൊണ്ടു ഇരുക്കണമെന്നു വിചാരിക്കുന്നതു് വലിയ സങ്കടകരമാണെന്നാണു ഞാൻ പ്രസ്താപിക്കുന്നതു്. ൨൭,൦൦൦-ൽപരം ജനങ്ങളുടെ പ്രതിനിധിയായ ഞാൻ എങ്ങനെ അവരോടു ഉത്തരംപറയും? ഈ സഭയെ അലങ്കരിച്ചിരിക്കുന്ന മാന്യമഹത്തുക്കൾ എന്നെ അനുകൂലിക്കണമെന്നു അപേക്ഷിക്കുന്നു.

MR. M. SIVATANU PILLAI (*Tovala*) : ജനിച്ചു ഉടനെതന്നെ ഉകന്തുടമാവകാശം സിദ്ധിക്കുമോ?

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MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : ഉകന്തുടമയെപററി പ്രസ്താവിക്കുമ്പോൾ അതി നപററി പറയാം. എന്റെ ചുമതല ഞാൻ ശരിയായി നിവ്വഹിച്ചിട്ടില്ല. കണ്ണുകടി കാണാൻ പാടില്ലാത്ത അനേകം സ്ത്രീകളോടും മറും ഞാൻ എന്താണ് സമാധാനം പറയേണ്ടതു് എന്നുള്ളതിനെപററി എനിക്കതിയായ സങ്കടം ഉണ്ടു്. എനിക്കനുകൂലമായ തീരുമാനം ഉണ്ടായില്ലെങ്കിൽ ഈ സഭവിട്ടു പോയിട്ടതന്നെ ആവശ്യമുണ്ടോ എന്നു ഞാൻ സംശയിക്കുന്നു.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I rise to a point of order. I wish to know whether his speech is relevant to the motion before the House. He is talking about his own affairs.

PRESIDENT: I called his attention to the point before.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : ഞാൻ ഇപ്പോൾ പ്രസ്താവിക്കുന്നതു വേറെ ഒന്നുമല്ല. ഞാൻ അനന്തിരവകക്ഷിയാണ്. ഞങ്ങളുടെ ഇടയിലുള്ളവരും പഠിക്കുന്നവരുമായ എത്ര യുവാക്കന്മാരാണ് ഓരോ മൂലയിലും മറും കാണുന്നതു്. എന്തുകൊണ്ടെന്നാൽ ഫീസ് കൊടുക്കാൻ നിവൃത്തിയില്ല. ഉടുക്കാൻ തുണിയില്ല. പൂവ്വാഭിമാനത്തെ വിചാരിച്ചു മുണ്ടു മുറുക്കി ഉടുക്കും. ഇങ്ങനെയുള്ള അബദ്ധത്തിലാണ് ഞങ്ങളം കിടക്കുന്നതു്. ഈ സങ്കടത്തെ ഈ സഭയിലല്ലാതെ വേറെ എവിടെയാണ് പറയേണ്ടതു്? ഈ സംഗതിക്കു എനിക്കു മജാറിട്ടി കിട്ടിയില്ലെങ്കിൽ എനിക്കുള്ള വഴിയെന്താണ്? മിശ്രഭായമോ പെർസ്റ്റിർപ്പിഡ്സ്സോരണ്ടിനുമോ ഞാൻ അനുകൂലിയല്ല. പ്രതികൂലിയാണ്. ഈഴവബിൽ സെലക്ട് കമ്മറി റിപ്പോർട്ടിൽ എന്റെ മാന്യസ്നേഹിതൻ മിസ്റ്റർ സുബ്ബയ്യർ അവർകളതന്നെ ഇങ്ങനെ പറഞ്ഞിട്ടുണ്ട്. മിശ്രഭായത്തെപററിയുള്ള ഒരു ചോദ്യമാണ്.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I rise to a point of order. How is *misradayam* relevant for this discussion?

PRESIDENT : Will the member please say how that is relevant?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഈ മിശ്രഭായത്തെപ്പററി-

PRESIDENT : We are dealing with the Vellala Bill and not with the Ezhava Bill.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഓരോ മാതിരി പാർട്ടിഷൻ.

MR. C. P. TARAKAN (*Kunnatnad*) : അമൻറമെൻറ എങ്ങനെ മിശ്രഭായമാകും?

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MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഇപ്പോഴത്തെ അമൻഡ്മെൻറ് മിശ്രമായമാകും. അതിനെ സാധുചെയ്യാൻ പ്രയാസമെന്നാണ് ലാമെമ്പർ അഭിപ്രായപ്പെട്ടിരിക്കുന്നത്.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): One is a system of inheritance and the other is in regard to partition of property.

PRESIDENT: If the member wishes to continue to speak, will he please speak to the motion and keep to the point?

MR. S SUBRAHMANYA PILLAI (*Co-opted*): എന്റെ കമ്മ്യൂനിറ്റിയിൽനിന്നും തന്നെ പല ആളുകളും അഭിപ്രായപ്പെടുകയും ആശിക്കയും ചെയ്യുന്നത് പെർക്യാപ്പിറ്റാഭാഗം വേണമെന്നാണ്. ഇവിടെ സന്നിഹിതരായിട്ടുള്ള അനേകംപേരുടെ അഭിപ്രായമാണ് ഞാൻ ഇവിടെ പ്രസ്താപിക്കുന്നത്. ഈ നിയമം ഭേദഗതിക്കുമ്പോൾ ഞങ്ങൾക്കുള്ള അവകാശം എല്ലാംകിട്ടണം. മരുമക്കത്തായത്തിലുൾപ്പെട്ട നായർ റെഗുലേഷൻ ഈഴവറെഗുലേഷൻ മുതലായവ ഈ ഹൌസിൽനിന്നും തീരുമാനിക്കയുണ്ടായി; അതുപോലെ ഞങ്ങൾക്കും പെർക്യാപ്പിറ്റാ എന്നുള്ള ദായക്രമം സ്ഥാപിച്ചുകിട്ടണം.

പിന്നെ എതുകക്ഷികൾ പറയുന്നതു നാഞ്ചിനാട്ടുവെള്ളാളർ മക്കത്തായക്കാരായിരുന്ന് പിന്നെ മരുമക്കത്തായത്തിലേക്കു മാറി എന്നാണ്. അതു ശരിയല്ല. ഒരിക്കലും മക്കവഴിയിൽനിന്നും മരുമക്കവഴിയിലേക്കു ഒരു സമുദായവും മാറുന്നതല്ല. മരുമക്കവഴിക്കാർ മക്കവഴിയെ താൽപ്പര്യപ്പെട്ട മാറിയാൽ എന്തെങ്കിലും ഒരു പേരു കൊടുക്കണമെന്നുദ്ദേശിച്ചാണ് തമിഴിൽ ഉകന്തുടമ എന്ന പേരു കൊടുത്തിട്ടുള്ളത്.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): നാഞ്ചിനാട്ടുവെള്ളാളർ എപ്പോഴെങ്കിലും മക്കവഴിക്കാരായി ഇരുന്നിട്ടുണ്ടോ?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഞാൻ അറിഞ്ഞിട്ടില്ല.

MR. C. P. TARAKAN (*Kunnatnad*): കമ്മറിറിപ്പോർട്ടിൽ നാഞ്ചിനാട്ടുവെള്ളാളർ മരുമക്കവഴിയായിരുന്ന എന്നു പറഞ്ഞിട്ടുണ്ടോ?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഞാൻ മരുമക്കവഴിയെന്നതന്നെയാണ് പറഞ്ഞത്.

ഞാൻ ഇവിടെ വന്നതിനുശേഷം പല സ്നേഹിതന്മാരേയും കാണുന്നതിനിടയായി. ഞാൻ വടക്കൻതിരുവിതാംകൂറിൽനിന്നുള്ള വയ്ക്കത്തുനിന്നുമാണ് വന്നിട്ടുള്ളത്. ഞങ്ങളുടെആളുകൾ മാവേലിക്കരെ കുറെ ഉണ്ട്.

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പിന്നെയൊക്കെ തെക്കൻതിരുവിതാംകൂറിലാണ് ഉള്ളത്. അവരോട് അനുകൂലിച്ച് ഈ നിയമം പാസാക്കുകയാണെങ്കിൽ ഞാൻ ശപിക്കപ്പെട്ടവനായിതീരും. ഞാൻ ഇവിടെ വന്നതിനുശേഷം ഒരു വല്യമ്മയെ കാണാൻ ഇടയായി. അവർ എന്നോട് 'നാഞ്ചിനാട്ടു വെള്ളാളബില്ല് ക്കാര വന്തിരുക്കേരാ?" എന്നു ചോദിച്ചു.

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether the member is allowed to talk in more than one language?

MR. C. P. TARAKAN (*Kunnnad*): He is only quoting what the old woman told him.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): അവർ എന്നോടു പറഞ്ഞതു് മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള ആംവീതം ഭാഗം വാങ്ങിത്തരാമെന്നുപറഞ്ഞാണ് വോട്ടുവാങ്ങിച്ചതെന്നാണു്. മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള താഴ്ത്തിഭാഗത്തിനായി ഒരു അമെൻഡ്മെൻറയച്ചിട്ടുണ്ടെന്നും ആംവീതംഭാഗത്തിനു വിരോധിയാണെന്നും ഞാൻ പറഞ്ഞു മനസ്സിലാക്കി.

അതുകൊണ്ടു ഈ സഭയിലുള്ള മാന്യന്മാർ ഞങ്ങളെ ഇപ്രകാരംഗപ്പെടുത്തരുതെന്നു താഴ്മയായി യാചിക്കുന്നു. ഞങ്ങൾക്കു് ഒരു രക്ഷയുമില്ല. ഇത്രയും പറഞ്ഞുകൊണ്ടു എന്റെ പ്രസംഗത്തെ അവസാനിപ്പിച്ചുകൊള്ളട്ടെ. നിങ്ങളുടെ സഹായം ഞങ്ങൾക്കു കിട്ടണമെന്നുള്ള പ്രാർത്ഥനയോടുകൂടി എന്റെ പ്രസംഗം നിർത്തുന്നു.

MR. M. VELU PILLAI (*Co-opted*): Sir, I accept the amended motion now brought forward by my friend Mr. M. Sivatanu Pillai; and, in doing so, I wish it to be understood that this so-called compromise is not a new proposal, for it may be seen from the report of the Enquiry Committee that this aspect of the question, *viz.*, that of dividing half the properties *per capita* and the other half by *thavazhi* was also mooted and put to the witnesses, who were examined by that Committee, with the result that there were only as many as 20 supporters to that view out of 318 witnesses, while no less than 224 were in favour of individual partition for which I had lent my support. Although the fact itself clearly indicates the line on which the sentiment of the community runs, yet on mature consideration and weighing several factors that are involved in this contested matter, I am inclined to accept the amendment as a *via media* course, one of the chief reasons being that both the elected members of my community vehemently opposed the chief provisions of the Bill and urged the necessity for the re-committal to a fresh Select Committee. If the Bill be referred *de novo* to a fresh Select Committee, the chances are that it is likely to drag on for a long time—a contingency which one would wish very much to avoid when prevailing conditions are taken into account. Moreover, some of the learned members of this Council and well-wishers of the community have advised me to accept the amendment at least for the sake of the

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more important measure of having the Bill passed into law. If, therefore, the contesting parties did not arrive at a compromise, there was the greater misfortune of the Bill being dragged on indefinitely, if not wrecked, for which my friends on the other side are attempting ; and as naturally half a loaf is better than none, I am agreeable to the amendment in order to avert what would otherwise be a calamity to the community. I believe that this amendment, in spite of the complications involved, is an improvement on the existing system; and I trust it would be acceptable to both the diametrically opposite schools of thought in preference to the existing state of affairs.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Sir, I think I ought to say a few words on this occasion about the proposed amendment. I must, in the first place, congratulate the mover of this amendment for having brought it in. I may at once premise by saying that I am personally not interested one way or the other. But I am interested in one thing, namely, that the Nanjanad Vellalas must have a piece of legislation which will be equitable and at the same time acceptable to the community. It is in that spirit that I approach the question. Why I rise to speak on this occasion is that I have had very much to do with the Bill and I may take the pride or the odium, which ever it might be, according to the sense in which the parties opposing may take it, of having brought this Bill to this stage. I was at first responsible for moving a Bill to regulate the *ukantudama*, the form of marriage, divorce and other things relating to the Nanjanad Vellalas in the old Legislative Council. That went up to the Select Committee. The Select Committee submitted a report; and ultimately it had to be dropped because there was a large volume of opposition that the Bill was not exhaustive and that the Bill did not satisfy the aspirations of the people. Therefore, after having gone to that stage, the Bill had to be dropped, although the Bill was based upon the report of a committee appointed by the Government and presided over by Mr. Narayana Menon who was then Peishkar. So that after the Select Committee report, the Bill was dropped and then it was that another Committee was appointed with more elaborate powers and with power to enquire and take evidence; and that Committee was presided over by Mr. M. Raja Raja Varma. They presented a report which was unanimous and which contained in it a provision that there should be *per capita* partition. But when the Bill was introduced, it was found that Mr. M. Subrahmanya Pillai, the present member, opposed it. Afterwards, when it went to the Select Committee, we found that there was a large volume of opposition to the Bill as regards allowing *per capita* partition. So, the Committee was forced to take evidence, to hear deputations and to hear vakils. So that there was a large number representing one view and there was also about an equally large number representing the other view. There were documents presented to the committee. The documents were examined, with what result I have already stated on another occasion. Thus, even when the Select

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Committee was considering it, it could not be denied that there was a strong volume of opposition fit to be recognised. The committee was in a fix as to what to do, and they deliberated and deliberated and ultimately came to the conclusion that they should accept the general principles of the *marumakkathayam* law applicable to the Ezhavas and also applicable to the Nayars,and therefore they recommended *per capita* partition. What Mr. Sivatanu Pillai referred to was that, in the draft report, a suggestion was made that the Bill should not be dropped, that the parties should make up the matter and that there should not be such a volume of opposition and at the final stage of the Bill the committee hoped that they would come to some understanding. But that portion was deleted from the Select Committee Report, while it was adopted in the dissenting minutes by Messrs. P. K. Narayana Pillai and M. Sivatanu Pillai. But, even then, it was distinctly understood, and that was deliberately my view that, if the parties should come to some understanding and see if the Bill is acceptable to the community as a whole, then it will have my entire support. So that, even though Mr. M. Sivatanu Pillai's proposition was not withdrawn on the understanding of a compromise, and if some other member had brought a similar amendment, he would have received my support in its entirety. No doubt, we have passed the Nayar Regulation. We have also passed the Ezhava Regulation. But the members know and the House knows that there is a Bill which is coming on for to-morrow and I need not anticipate the arguments for the Bill based mainly on the ground of majority or minority. The argument is that this Council has absolutely no business to inflict or impose a law on us which is not acceptable and therefore it should be in the first instance permissive, that is, open to those who want to get into it and not applicable to those who do not want to get into it. I daresay this House recognises that, when the Ezhava Bill was introduced, there was a volume of opposition, and to protect the minority to get out of it a provision was made. Even that is now opposed very strongly. I am not saying that that opposition is sound or unsound, reasonable or unreasonable, legal or illegal. That apart, we see again that an attempt is made to introduce a Bill to undo what has been done. For, a piece of legislation has been passed, the Bill has become Regulation and it is binding upon the parties. Now, if that should be the sense, if that should be the motive which guides one section of the community, and if, as a result of it, a Bill is passed, is it not open to a minority to come forward and say "Here we are. What business have you to impose a law upon us which we have not been all along supporting? Make it permissive and leave it open to us to get into it or remain outside it." So, it is open to them to say as the Ezhava representative will say in regard to the Bill tomorrow. Whether the Government will be justified in passing a Bill to which there is a strong opposition is a different matter. But it is just open to anybody, before the Bill is passed into a Regulation, to say, "Do not bind me." This is a piece of social legislation—it is not a public piece of legislation brought forward in discharge of a public duty—intended for the benefit

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of the community as a whole. That being the case, it will not be proper to enact a coercive piece of legislation. If the argument that is to be brought forward to-morrow will be brought forward by Mr. M. Sivatanu Pillai with the result that the Bill is either recommitted or does not finally receive the assent of Her Highness the Maha Rani Regent, I am afraid that all the labour I took for the purpose of this Bill and all the trouble that I took over it in the Select Committee will be wasted and the community will be driven adrift. Therefore, I think it is my duty to see that some amicable settlement is arrived at by the parties concerned. Therefore, when both the parties came to me, I advised them to make up the matter and not to leave the Council to decide one way or the other, which may be right or wrong, pleasing to one section of the community or unpleasant to another section of the community. A compromise between the parties in a case is much better than a judgment, even though it may be right according to law and equity. We have nothing to do with law or equity in a compact which has been arrived at by the consent of the parties. It is that which prompted me to advise both the parties to come to a settlement. I deprecate attributing any motive to any honourable member of the House that he made a compact because he was connected in one way or other, or actuated by one motive or other, or related to A or to B. I deprecate that idea. I know some of the people who admitted to me that, in the case of *makkathayam* property, the principle of *per stirpes* may be followed. If so, I ask, where is the justification to exclude *per stirpes* system of partition, if they are prepared to grant that in *makkathayam* property where *per stirpes* principle applies. Then, the objection that I made to it was that the result will be that in every case one party will say the property is *makkathayam* and the opposite party will plead *tarwad*, and I know that the Nanjanad Vellalas, litigious as they are, will contribute much more to the profession. But if we have one-half *per capita* and one-half *per stirpes*, it will be applicable to all properties alike and then there will be no question of *makkathayam* or *tarwad* property. That was the earnest and the most desirable motive that actuated me and the parties to be anxious to come to an agreement. When that is the case, to turn round after having given the consent—I do not want to say anything strong—is not fair nor is it just. Nobody ever compelled anybody, there was no coercion, no undue influence, no misrepresentation or anything which will make void an ordinary contract. That is one side.

Then as to the other side of it. After all, is the compact so unreasonable? Are the parties who advocate *per capita* so sanguine of success? I daresay not. For I know my difficulty, and the number of days I spent on it. There was one matter which I found rather difficult to explain away and my conclusion was mainly based on the fact that, going by the general principle of *marumakkathayam* law, we

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[Mr. V. Subba Aiyar.]

must accept *per capita* partition. That was the motive, the only motive that made me agree to it. One circumstance cannot be got over and I am prepared to state that in the open Council. Even if I was prepared for the *per capita* partition originally, I could not ignore the fact that the courts have recognised *per stirpes* partition. Therefore, the principle of *per stirpes* was followed in one particular thing and I will state what it is presently. It is a matter which is vital and has to be explained. The Nanjanad Vellalas are essentially regarded as *marumakkathayees*. But there are one or two relics, I may say, which are attributed to *makkathayam*, though my friend Mr. Subrahmanya Pillai of Vaikam demurs to it. It may be true, or it may not be true, and, as I said on another occasion, we are not concerned with ancient history. But there is the fact that there is something which pertains to *makkathayam* and that is the principle of *per stirpes* being recognised in one form or other in some portion of that transaction. Then again Mr. Subrahmanya Pillai said that *per stirpes* partition belongs to *marumakkathayam* ignoring the principle of Hindu law. Probably he does not know Hindu law. Hindu law recognises *per stirpes* and nothing else. An out and out *makkathayee* has only *per stirpes* partition and no *per capita* partition. So I do not think that argument will weigh with us. I am a pure, out and out *makkathayee* and I have only *per stirpes* partition and nothing else. I do not think that argument will appeal because, if you want to be a *makkathayee*, it must be *per stirpes* partition and nothing else.

But before proceeding further, I must read one or two sentences from a judgment, and which judgment it is rather difficult for me to get over, because of the essential reason that the Courts fancied that generally the *marumakkathayees* were having *per capita* partition. In the case of the Nayars and the Ezhavas, the principle is *per capita* division. We thought it safer for the sake of uniformity to add that. That particular thing is reported in 23 T. L. R. page 197. I daresay that the House knows that every Nanjanad Vellala is entitled to a share in the father's property, that is to say, in the share of the father's *tarwad* property. But if the father is a *Marumakkathayee* and if he leaves children, those children are entitled to a share in the *tarwad* property of the father. The question then arises as to how that share is to be ascertained, whether it should be *per capita* or otherwise. The principle in their case is that, in ascertaining that share, the women are entirely ignored and the males are alone taken into account. In doing so, the question, whether it should be restricted to the males of the higher grade or whether the males of the lower grade should also be included, was the subject matter in a dispute. In the particular case in 23 T. L. R, Justice Sadasiva Aiyar, quoted a judgment of 1050 of the old Sadar Court, which says:—

"The Nanjanad Vellalas are a peculiar class of people. They originally followed the *makkathayam* law and with it the manners and customs of those who followed that law. But emigrating into a country where the *marumakkathayam* prevailed, they gradually imbibed the manners and customs of the people of their land of adoption till they became to all intents and purposes followers of the *marumakkathayam* law. But they

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could not entirely give up the customs which they had brought with them from the land of their birth. Two essential customs, they could not possibly give up. According to the *shastras*, it is the duty of the son to perform the obsequies of the father. It is a sacred duty. Nor is the duty without any advantages. The son is obliged to perform the obsequies of his father and is entitled to inherit his property, and it is not competent to the father to disinherit his son by any alienation to take effect after his death."

After quoting all that, Justice Sadasiva Aiyar says :—

"The next point for consideration therefore is whether plaintiff's father's share is to be taken as half (plaintiffs' father and defendant alone being taken to be the *tarwad* male members to be counted for *ukantudama* purposes) or whether all the three nephews also are to be counted or any of these nephews is to be counted."

And, then, in deciding that, he said,—

"Thus, not only those on the same line as plaintiffs' father but those on a higher line were counted. The plaintiffs' vakil, however, argues that those on a lower line should not be counted. But we are just now unable to see any distinction in principle, the only test seeming to be to ascertain who are the male members (of the *tarwad*) who had wives or children at plaintiffs' father's death."

In other words, he said we cannot see any distinction on principle. So, it cannot be said that the analogy is the same—that was his view. Inasmuch as there was no evidence he remanded the case.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Supposing the son was not in the station when the father was dead and so was not able to perform the obsequies of the father, is he entitled to a share?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : That is a hypothetical question which does not arise and which I am not prepared to answer.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : I only want to know whether, in such a case, he is entitled to anything?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : It is a question for legal opinion and it requires mature consideration. It cannot be answered without the necessary materials.

The Chief Justice, after the case was heard after remand, observed as follows:—

"I was also under another misapprehension when the remand was made. I thought that the judgment of the High Court in appeal case 184 of 1077 implied the view that males higher in the family genealogy than the plaintiff's father in that case were counted as units along with plaintiff's father to ascertain plaintiff's father's share for carving out plaintiff's *ukantudama*. After going again through that judgment of the High Court in the light of the judgment of the District Court in that case, I think that I was misled by some general expressions in the High Court judgment and I am satisfied that that judgment did not enunciate any definite view that all married males (of whatever grade in the genealogy of the *tarwad* existing at the moment before plaintiff's father's death should be counted as units. The actual decision in that case is fully consistent with the view that only males of the same grade as plaintiff's father should be taken into consideration to ascertain plaintiff's father's share and that where the plaintiffs are children of an *anandaravan* (who died while males in a higher grade were alive) the *karanavan's* sister (ancestress of the *anandaravan*) is treated as a male along with her brothers for the purpose of ascertaining the share of the *anandaravan* whose children claim *ukantudama*."

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[Mr. V. Subba Aiyar.]

Then *per stirpes* was decided upon. Mr. Justice Sadasiva Aiyar says, in the course of the judgment from which I quoted :—

"I said again in the remand order that I was just then "unable" to see any distinction in principle between counting males on a lower line and counting males on a higher line than plaintiff's father as units for ascertainment of plaintiff's father's share. That observation was based on the view that the Judgment in A. S. 184 of 1077 counted all married males in the *tarwad* of whatever degree as equal units but that view of that judgment was a mistake, as I said just now.

"Lord Chancellor Halsbury has remarked in Quinn v. Leatham to the effect, that law does not consist of a body of exactly logical rules and perfectly consistent decisions. His words are: 'I entirely deny that a case can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code whereas every lawyer must acknowledge that the law is not always logical at all.' Especially where customary laws and usages are concerned, it is unsafe to act merely and solely on logical deductions from rules relating to one set of facts and circumstances when we have to decide on rights and liabilities arising from another set of facts and circumstances, though it might be an analogous set."

On that view, the court decided that the members of the family should get property according to *per stirpes* partition. No doubt, only one-tenth goes to the first member ; the remaining nine-tenths goes to the members of the family. But even if the *marumakkathayam* principle prevailed and the share is ascertained on the *per capita* basis, the remainder will go to the other members of the family.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : May I know whether the member had this judgment in his mind when he wrote the report ?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : Yes.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Does the member remember the following sentence written by the Committee of which he was the President—

"We have discussed and considered the various points placed before us and we think that *per capita* is the just and more reasonable course to be adopted "?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : If my file were looked into, it would be seen that the decisions of the High Court of Travancore relating to the Nanjanad Vellala community, reported as well as unreported, are summarised there. I summarised the arguments and I said that in our view *per capita* division was more just. I may add that the principle of *per stirpes* in one form or other is recognised there. Whether on that principle the whole property should be divided *per stirpes*, or any portion, is rather difficult to say. That is why the people advocate that one portion of the property should be divided *per stirpes*. Seeing that one form of *per stirpes* is being recognised and seeing that the members here have come to an understanding, so far as they stood on Monday, that it may be settled in a particular way, I do not see any reason why this Council should go into that question whether, on the ground of analogy or on the ground of the Committee's report, *per capita* division should be forced upon the community. A good portion of the people, I know as a matter of fact, are unwilling to accept this principle. I am willing to grant that they are in a minority. It will, however, be rather hard to thrust a

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piece of legislation upon a party if it is not acceptable to them even though the party be in a minority. Leaving aside this present conflict or fight, if the members of the community think over the matter coolly after the heat of the battle is over, they will come to the decision whether this piece of legislation should or should not be passed. But I do not think that the members should be left to consider the question afterwards. I believe that something like a transitory provision should be introduced in the Bill just at present. If the succeeding generation does not accept it, it is possible for them to alter this provision. I do not think that we need legislate for all time. It is enough if we see that what we do is acceptable to the community generally. At any rate we have done our best to see that both the sections of the people are favoured or disfavoured and that we did not prefer one section of the people to the other and therefore inflict a piece of legislation upon one section which they did not desire. In that aspect of lthe view, the compromise is a wholesome one. I do not wish to say anything against the attitude of Mr. Subrahmanya Pillai of Vaikam. I believe the compromise is equitable. The House is at liberty to look into it. With these words, I beg to support the amendment.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I know whether, if the President out of grace allows Mr. Subrahmanya Pillai to reconsider the question of the recommittal now, he would accept the amendment?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I have my own doubts as to whether the President himself has got that power.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Out of grace?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I do not think the President has got such autocratic powers. The only thing that the President, in his capacity as Dewan, can do is to defer the passing of the Bill. I do not know whether the President can say that all the proceedings from sections 1 to 30 are null and void and we should start *de novo*. I do not know whether I should answer on that supposition.

In sub-clause 2, line 3, I would delete the words "as a whole". What is meant is that each individual is entitled to a share in the property. Even without the word "as a whole", the meaning would be clear. These words are likely to mislead and confuse and he interpreted that during the life time of the mother the children cannot claim their share. I beg to move that the words "as a whole" be deleted.

MR. M. SIVATANU PILLAI (*Tovala*): I accept the amendment.

MR. A. K. PILLAI (*Karunagapalli*): Sir, I am sorry I have to oppose the amendment. A good deal has been said about the virtues of compromise. I am not slow in appreciating them. Statesmanship lies in compromise. Government are run only on principles of compromise. Certainly we must in our life be prepared for compromises. But what is a compromise? When A owes Rs. 5 to me and when he is unable to pay me the whole sum, I should be prepared to accept whatever he is able to pay and compromise. Here one can see the spirit of compromise in action. For I am compromising only my own claim for the full share.

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[Mr. A. K. Pillai.]

That is commendable. But we cannot compromise other people's rights. I do not mind if Mr. Subrahmanya Pillai compromises his show with Mr. Velu Pillai or Mr. Sivatanu Pillai doing the same with Mr. Velu Pillai. But what we are here asked in the name of compromise is to forfeit the vested rights of those who are not here. The matter before the House is not a matter to be settled among these four people. If it were so, then it could have been decided outside the House. This talk of compromise is irrelevant and is designed only to create a confusion in our minds to the prejudice of those who are not here. It is only to create this prejudice that they say that Mr. Subrahmanya Pillai's preliminary objection was withdrawn as a result of an understanding on the basis of which the present amendment is said to be brought.

MR. K. K. THOMAS (*Kottayam*): May I know whether that point was not brought forward by the mover?

MR. A. K. PILLAI (*Karunagapalli*): The Council is not concerned with it. Mr. Subrahmonia Pillai came forward and asked the permission of the House to withdraw the motion. The Council allowed him to do so. He gave his own reasons for withdrawal; and the circumstances that influenced him personally are not binding on the Council. We were perfectly at liberty either to allow or disallow the withdrawal despite the merits of his reasons.

MR. N. KUMARAN (*Nominated*): May I know whether the permission of the House is necessary in such a case?

MR. A. K. PILLAI (*Karunagapalli*): Yes. For withdrawing a motion under all circumstances.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I know whether the member opposed the withdrawal?

MR. A. K. PILLAI (*Karunagapalli*): I have nothing to do with that just now. And that is no more before the House. I may mention, however, that I have at that time drawn the attention of the House to the fact that the conditions of the withdrawal were not binding on the House to which the Deputy President, who was then presiding, agreed also. Now coming to the amendment itself, I may point out at the outset that, even according to the given illustration, A, B, C and D will get the largest share of Rs. 3,400 each, while L, M, N and P get only Rs. 1,160 So we are asked to accept a compromise in which one set of members have nothing to lose and everything to gain, while the other set of members have hardly anything to gain but a good deal to lose. I ask where is the virtue in this compromise? While all are equally the claimants of the *tarwad*, why should the first grade members alone gain at the expense of the female members and children?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): L, M, N and P may be male members. They need not necessarily be female members.

MR. A. K. PILLAI (*Karunagapalli*): Well, that is more likely in the order of things.

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MR. M. SIVATANU PILLAI (*Tovala*): May I know whether the member has understood the principle of *per stirpes* as it is applied here?

MR. A. K. PILLAI (*Karunagapalli*): If my friend feels any doubt in the matter, he might cross-examine me towards the close of my speech and I would then answer his question. Sir, we are asked to act on the virtues of compromise. I ask again where is the compromise when one set of members, whose claim is equal with the other, stands but to lose? My submission is that the Vellala *tarwad* is a *Marumakkathayam tarwad* in which no member has got a greater claim than any other. I believe this fact cannot be disputed. Mr. Subrahmanya Pillai, or any other member is at liberty to change his opinions. But he cannot alter facts. The Vellala Enquiry Committee has unanimously found Vellalas to be following the *Marumakkathayam* system, to which Mr. M. Subrahmanya Pillai is a signatory. The report says:—According to the *Marumakkathayam* system which is followed in the main by the community the family property is indivisible The members of the family, both male and female, can claim only a right of maintenance from the property and this right was subject to residence in the family house and sharing in the work of the family. The family property is managed by the eldest male member of the *tarwad* as *karanavan* and he is reponsible for maintaining the other members of the family who are collectively called *anandaravans*. In the absence of male member, the eldest female member is the *karanavan*. Theoretically, the rights of *karanavan* and *anandaravan* in the family property are the same *viz*., that of maintenance, but in practice, all the family property is in the possession of the *karanavan* and as the manager of the *tarwad* he enjoy the benefits thereof and distributes such proportion of the family income as he thinks fit, for the maintenance of the other members. The *karanavan* cannot alienate *tarwad* properties except for proper consideration and family necessity. The consent of the *anandaravars* is necessary for sales and mortgages for fixed terms. No debt contracts by any member for his own purposes is binding on the family properties. The property is impartible" These are facts and cannot be changed. Opinion may be changed. Mr. Subrahmanya Pillai might to-day change an opinion which he was holding last evening. But he cannot contend that facts have changed. That the Report of the Committee has said that the Vellalas are *marumakkathayees* is a fact. That that finding was arrived at after elaborate enquiry is a fact. That Mr. Subrahmanya Pillai has fully concurred with that finding is a fact. Now these facts stand boldly before us .It is also to be noted that the majority of the witnesses were found to be in favour of individual partition. 224 people wanted individual partition, whereas only 20 people said that they would be content with half the ancestral property being divided *per capita* and the other half *per stirpes*. This is also a fact which my friend Mr. Sivatanu Pillai or Mr. Subrahmanya Pillai cannot or will not dispute. Mr. Velu Pillai, who stood for individual partition, is now willing for the latter arrangement and quoting his own words, it is only

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[Mr. A. K. Pillai.]

because he thought that half a loaf would be better than none at all. Now Sir, I want the House to realise that this is nothing but a counsel of despair, to which he was driven probably fearing that this House would not be amenable to his and his party's reasonable demands. Now, Sir, I submit that we are here to give him the full loaf if he is entitled to it. If any one is driven to a position of despair in a matter in which we are judges, that would only reflect adversely on our capacity to discharge our duties. Not that I feel any doubt myself, but I am suggesting a natural conclusion that might possibly be drawn. Hence I say that the whole responsibility of deciding this issue is upon this Council. The question is not how best to satisfy the majority of the Vellala members amongst us, but how to act fairly and equitably by the whole community whose trustees we are. Much has been said about *Ukantudama* to make out a case for the amendment by showing that the system followed was more or less *Makkathayam*. I think Mr. Subba Aiyar in his heroic attempt has, I might be pardoned to say, pleaded like a Vakil and not as a legislator or a statesman and I felt, Sir, that he was not speaking with his hand on the heart. As it was pertinently suggested by Mr. K. Sivarama Panikkar by the question he put to Mr. Subba Aiyar and to which the learned Deputy President advisedly gave an evasive answer, this *Ukantudama* is no vested right of children chargeable on the family property. Children cannot claim any *Ukantuda na* if they did not perform the funeral obsequies of the deceased. I may also call the attention of the House to Appendix IX of the Report where it is stated that there were in Tovala taluk three escheat cases in which, children surviving, the deceased's property lapsed to the State. In all these cases, appeals were filed by the respective children with no avail.

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*) : Will the member take this information from me that the *Ukanthudama* rights were recognised in those cases?

MR. A. K. PILLAI (*Karunagapalli*) : Might be. But for that reason they were not given any share in the *tarwad* property.

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*) : I will give him the information that *Ukanthudama* right was recognised.

MR. A. K. PILLAI (*Karunagapalli*) : Well, I have my own information about it and that is based on the Enquiry Report. Again much has been made out of written documents in contrast with oral evidence. I am a member of the Nayar Community and I have had occasions of knowing the circumstances under which partitions are effected and documents are written. More often than not, it is pressure on the one side and weakness on the other that determine the proportions in partitions. Sometimes the *Karanavan* is given almost an equal share of the family property with the rest of the members all put together. *Karanavan* as the head of the family has an advantage over other members in that all

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the resources of the family are at his disposal and he can well afford to wait comfortably till a decree is obtained in a civil court by the other members, and it may take years before the latter are able to get even maintenance from the *tarwad*. Under these circumstances, the weaker party gives way to the dictates of the stronger one and partitions are accordingly effected. And hence I say these partition deeds are no safe indications of the rights and customs that obtain in the community. On the other hand, oral evidence given before the Enquiry Committee is deliberate and shows disinterested views freely uttered by responsible members before a responsible body; and since there is no immediate personal interest at stake and no frown to fear, those views may be taken as possibly the reflection of the prevailing sense of the community. If we accept the present amendment, it would only mean, in the terms of the given illustration, that some members are given much more and some members are given very much less while no member has by right any greater claim than any other, I ask what right have we to deny any member his vested right? What right have we to arbitrarily decide that A should have Rs. 3,400 and P should have only Rs. 1,600. This would be utterly unfair and unwarranted. The assumption that is underlying this division is that the members of the higher strata of the *tarwad* have greater rights than those of the lower strata. Such an assumption is unwarranted, as would be clear from the circumstance that any member of the *tarwad* who happens to be the eldest in age could undisputedly succeed to the *Karanavan's* place whether he belonged to the highest strata or the lowest strata. Very often one comes across instances in which a *Seshakaran* by descent is superseding his maternal uncle to the place of the *tarwad Karanavan*. This clearly shows that no distinction does as a matter of fact exist between the members of one strata and those of another. Again, will a partition deed or a mortgage deed be considered valid even if one member, male or female, stands out? Under these circumstances, how can it be claimed that some members should be given greater shares than some others? Mr. Subba Aiyar has said that we must accept the compromise now that a compromise has been effected. But I don't see how there can be any compromise between a right that existed and a right which did not exist. He again says that this Council has no business to thrust their views on a community which wants a different way of their own. I ask Mr. Subba Aiyar if he is not asking this House to thrust their views on an unwilling and unfortunate community when he asks us to support this amendment, which, if carried, would deprive the larger bulk of the Vellala *tarwads* of their vested rights. Shall we go by the evidence of the 224 witnesses or that of 20 who alone have favoured this principle of partition now embodied in the amendment? I appeal to the good sense of this House to act justly and courageously in this matter.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): നാഞ്ചി നാട്ട വെള്ളാളരിൽ എന്നുള്ള പേർ കേൾക്കുമ്പോൾ അതിന്റെ പൂർവ്വചരിത്രങ്ങളും ആ ബില്ലിനു നേരിട്ടിട്ടുള്ള കഷ്ടതകളും

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[Mr. T. Kumara Pillai.]

ഓമ്മയിൽ വരാതിരിപ്പാൻ നിവൃത്തിയില്ലാ. ഈ സമുദാ ത്തിനു ഒരു സാമുദായികനിയമം ഉണ്ടാക്കികിട്ടണമെന്നു കഴിഞ്ഞു ഫ വു വർഷങ്ങളായി ശ്രമിച്ചുകൊണ്ടിരിക്കയും അതിലേക്കു ഗവർൺമെൻറു വേണ്ടപോലെ അനുകൂലിച്ചുകൊണ്ടിരിക്കയും ചെയ്തു എങ്കിലും ഇതുവരെ സാധിച്ചുകിട്ടാൻ ഇടയായില്ലാ. കഴിഞ്ഞ നിയമസഭയിൽ, അന്തായത്തു ഫൻറു അക്കോ ബർ നു ൦ നു-, കൊണ്ടുവന്നതായ ബിൽ ഈ കൌൺസിലിൽ അതായത്തു് രണ്ടുവർഷം കഴിഞ്ഞപ്പോൾ രണ്ടാമത്തെ വായനക്കു എത്തിയിരിക്കുന്നതേയുള്ളു. ബില്ലിൻെറ ഇന്നത്തെ സ്ഥിതിയും ബഹുമായ അഭിപ്രായവ്യത്യാസങ്ങളിൽ സ്ഥിതിചെയ്യുന്നതായിട്ടാണു കാണുന്നതു. മിനിഞ്ഞാന്നത്തെ സ്ഥിതികണ്ടപ്പോൾ നാഞ്ചിനാട്ടു വെള്ളാളബില്ലിനെ സംബന്ധിച്ചുള്ള അഭിപ്രായവ്യത്യാസങ്ങൾക്കു ഒരുവിധം ഒതുക്കംവന്നു എന്നാണു ഞാൻ വിചാരിച്ചിരുന്നതു്. ഒരു സാമുദായികനിയമത്തിനു സ്വാഭാവികമായി ഉണ്ടാകാറുള്ള അഭിപ്രായവ്യത്യാസങ്ങൾ ഏകീകരിച്ചുവരുന്നതു അധികം അപരിമിതമായ സന്തോഷത്തെ തരുന്നതാണു്. ഇന്നലേമുതല്ക്കുള്ള സ്ഥിതികൾ വലുതായ ഇരമ്പാഭംഗത്തിനു കാരണമായിതീർന്നിരിക്കുന്നു. ആറംവീതം ഭാഗത്തിനു ക്ലിപ്തപ്പെടുത്തി നിർമ്മിച്ചിട്ടുള്ള ബില്ലിൽ രണ്ടുകക്ഷിയിലുമുള്ളവർ യോജിച്ചു ഒന്നുപകുതി താഴ്ഴിവീതമായും, ഒന്നുപകുതി അധികവീതമായും പറഞ്ഞുതീർത്തിരിക്കുന്നതായി തേക്കുർ മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളയും കൊല്ലം പ്രതിനിധി മെംബർ മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളയും ഇവിടെവച്ചു സമ്മതിച്ചു എങ്കിലും ഇപ്പോൾ അതിലേക്കും അഭിപ്രായവ്യത്യാസം വന്നിരിക്കുന്നു. നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തിൽ നിന്നും ഇന്നലെമുതൽ കമ്പികളും, എഴുത്തുകളും നിയമസഭാമെംബറന്മാർക്കു കിട്ടിക്കൊണ്ടിരിക്കുന്നു. ആ ക്രുദ്ധത്തിൽ എനിക്കും കിട്ടീട്ടുണ്ടു്. മെംബറന്മാർ തമ്മിൽ ഉണ്ടായിട്ടുള്ള രാജി പുറമേയുള്ളവരുടെ അഭിപ്രായം അറിയാൻ ശ്രമിക്കാതെ ഉണ്ടായിട്ടുള്ളതാണെന്നും മരുമക്കത്തായകുടുംബത്തിലെ സ്വത്തു അതിലെ എല്ലാ അംഗങ്ങൾക്കും ഒരുപോലെ അവകാശമുള്ളതാണെന്നും അതിനെ ഭേദപ്പെടുത്തി നിയമമുണ്ടാക്കാൻ പാടില്ലെന്നുമാണു് അതുകളിൽ അവർ വാദിക്കുന്നതു്.

ഏതായാലും ഈ ബില്ലിനെ സംബന്ധിച്ചു് ആ സമുദായത്തിൽ ബഹുമായ രണ്ടുകക്ഷികളുണ്ടെന്നുള്ളതു സമ്മതിക്കാതെ തരമില്ല. ഒരു സാമുദായികനിയമമുണ്ടാക്കുമ്പോൾ ആ സമുദായത്തിലുള്ള എല്ലാ അഭിപ്രായക്കാർക്കും യോജിക്കുന്നതായ ഒരു നിയമമുണ്ടാക്കാൻ ഒരു നിയമസഭക്കും ഒരുകാലത്തും സാധിക്കുന്നതല്ല. അങ്ങനെ വരുന്ന അവസരത്തിൽ

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പ്രധാനമായി നോക്കേണ്ടതു അതിലേ ഭൂരിപക്ഷാഭിപ്രായമാണ്. അങ്ങിനെ നോക്കുന്നതായാൽ ആഠംവീതംഭാഗകക്ഷികഠംക്കു കൂടുതൽ ശക്തിയുള്ളതായിട്ടാണ് കമ്മറിറിപ്പൊർട്ടിൽ നിന്നും കാണുന്നതു്.

MR. K. K. THOMAS (*Kottayam*): Does the member know that there is a complaint that the witnesses were not examined properly?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അതിനെപ്പററി പറയുന്നതായാൽ നാഞ്ചിനാട്ടു വെള്ളാളക്കമ്മിററിയിൽ നിന്നും ഭാഗത്തെസംബന്ധിച്ചു ഉണ്ടാക്കീട്ടുള്ള ചോദ്യങ്ങളിൽ ആ സംഗതി വ്യക്തമായി മനസ്സിലാക്കി മൊഴികൊടുക്കുന്നതിനു സൌകര്യപ്പെടുത്തീട്ടുണ്ടായിരുന്നു. ഈ സംഗതി ക, ര, ങ, ഒ, ൻ ഈ ചോദ്യങ്ങളിൽനിന്നും വ്യക്തമാകുന്നതാണ്. മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള പറഞ്ഞിട്ടുള്ളതായ ദൽനംകോപ്പു, വയ്ക്കം, ഈ സ്ഥലങ്ങളിൽ മൊഴികൊടുത്തതു ശരിയല്ലെന്നും, ഒരാൾ പറഞ്ഞതിനെ താങ്ങി മറുള്ളവർ പറഞ്ഞു എന്നുള്ള ആക്ഷേപവും ഒരിക്കലും നില്ക്കുത്തക്കതല്ല. ഒരാളുടെ അഭിപ്രായത്തിൽ മറുള്ളവർ ഇങ്ങനെ പറയുന്നതു സഹജമാണ്. ഇങ്ങനെ കൊടുത്തിട്ടുള്ള മൊഴികളെ പരിശോധിച്ചു റിപ്പോർട്ടിൽ ചേർത്തിട്ടുള്ള ഭാഗം ഇങ്ങനെയാണു്:

"(1) Partition should be allowed—211.

(2) Partition need not be allowed—15.

(3) Individual partition should be allowed—224.

(4) Partition should be by *Thavazhi*—48.

(5) Partition should be by *Thavazhi* first and then individually equally among the male and female members—17.

(6) Half the ancestral property should be divided *per capita* and half by *Thavazhi*—20."

ഭാഗംവയ്ക്കുന്നതിൽ ഒന്നുപക്ഷം തായ്വഴിയും ഒന്നുപക്ഷം ആഠംവീതവും അനുകൂലിച്ചിട്ടുള്ളവർ ന-ഫ വ-പേരിൽ ക ഠ പേരെയുള്ളു. ഇതുകൊണ്ടായിരിക്കാം ഈ രാജിക്കെതിരായി ഇതുവളരെ കമ്പികളും എഴുത്തുകളും ഇന്നലേമുതൽ കിട്ടാൻ ഇടയായിട്ടുള്ളതു്. നാഞ്ചിനാട്ടുവെള്ളാളക്കമ്മിററിമുമ്പാകെ മൊഴികൊടുത്തിട്ടുള്ളതിൽ ഹനുമാൻ കാരണവന്മാർ ഉഠംപ്പെട്ടിരിക്കുന്നു. സ്വയസിദ്ധമായ അധികാരത്തെ വിട്ടുകൊടുക്കാൻ ഒരിക്കലും സമ്മതിക്കാത്ത കാരണവന്മാർപോലും ആഠംവീതം ഭാഗത്തിനു അനുകൂലികളായിട്ടാണ് കമ്മിററിമുമ്പാകെ മൊഴികൊടുത്തിട്ടുള്ളതു് ഇങ്ങനെ നാഞ്ചിനാട്ടുവെള്ളാളസമുദായത്തിന്റെ അഭിപ്രായങ്ങളേയു

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[Mr. T. Kumara Pillai.]

ആശ്രഹങ്ങളേയും തൃപീകരിച്ചു എഴുതീട്ടുള്ള കമ്മിറ്റിയുടെ റിപ്പോർട്ടിൽ അതിലെ മെംബറന്മാർ യാതൊരു അഭിപ്രായവ്യത്യാസവുംകൂടാതെ ഒപ്പിട്ടിരിക്കയും ചെയ്യുന്നു. ഇങ്ങനെയുണ്ടായിട്ടുള്ള റിപ്പോർട്ടിനെ പരസ്യപ്പെടുത്തി ആറുമാസം കഴിഞ്ഞതിൽപിന്നീടാണ് ഈ ബിൽ നിയമസഭയിൽ കൊണ്ടുവരുവാൻ ഇടയായിട്ടുള്ളതു്. ഈ കാലത്തിനിടയിൽ ഈ ബില്ലിന്റെ തത്വങ്ങളെപറ്റി ആരുംതന്നെ ആക്ഷേപിച്ചിട്ടുള്ളതായി കാണുന്നില്ല. നാഞ്ചിനാട്ടുവെള്ളാളക്കമ്മിറ്റിറിപ്പോർട്ടിനെ അടിസ്ഥാനമാക്കി നിർമ്മിച്ചിട്ടുള്ള ഈ ബിൽ നിയമസഭയിൽ ആലോചനക്കെടുത്തതിൽ പിന്നീടുമാത്രമേ അതിൽ അഭിപ്രായവ്യത്യാസമുള്ളതായി അറിയപ്പെട്ടിട്ടുള്ളൂ. ഈ ബിൽ ഒരു സാമുദായികനിയമമായി വരാൻ പോകുന്നതുകൊണ്ടു സിലക്ടു കമ്മിറ്റിയിലെ അംഗങ്ങൾ വേണ്ടപോലെ സൂക്ഷിക്കയും ആലോചിക്കയും ചെയ്തിട്ടുണ്ടു്. അഭിപ്രായവ്യത്യാസമുണ്ടെന്നുവന്നപ്പോൾ ഓരോ കക്ഷിയുടേയും ഡിപ്യൂട്ടേഷൻ സ്വീകരിക്കയും അവരുടെ വാദങ്ങളെ കേൾക്കയും ചെയ്തിട്ടുണ്ടു്. അവർ ഹാജരാക്കീട്ടുള്ള പ്രമാണങ്ങളെ സൂക്ഷ്മമായി പരിശോധിച്ചിട്ടുമുണ്ടു്. ഈ സംഗതികളെല്ലാം വേണ്ടപോലെ ആലോചിച്ചിട്ടാണു് റിപ്പോർട്ടു് സമർപ്പിച്ചിട്ടുള്ളതു്.

മെസ്സേഴ്സ് സുബ്രഹ്മണ്യപിള്ള, ശിവതാണുപിള്ള ഇവർ ഈ ബില്ലിനെ സംബന്ധിച്ചു സിലക്ടുകമ്മിറ്റിയിൽ വച്ചു ചെയ്തിട്ടുള്ള ജോലികളെപറ്റി പലേ ആക്ഷേപങ്ങളും പുറപ്പെടുവിച്ചിരിക്കുന്നു. അതിൽ പ്രധാനമായി പറയുന്നതു (ഛ) സിലക്ടു കമ്മിറ്റിയിൽ ഹാജരാക്കീട്ടുള്ള പ്രമാണങ്ങളെ പരിശോധിച്ചിട്ടില്ലാ എന്നാണു്. മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള ഈകൌൺസിലിൽ വായിച്ചതായ മിസ്റ്റർ ടി. എം. ചിതംബരതാണുപിള്ളയുടെ പ്രമാണം മുഴുവനും അവിടെവച്ചു വായിക്കാൻ ഇടയായി. അതിൽ ആറുകക്ഷികളുണ്ടു്. അവരുടെ പേരുകൾ പറകയും ചെയ്തിട്ടുണ്ടു്. ഈ സംഗതിയിൽ മിസ്റ്റർ സുബ്ബയ്യർ വ്യക്തമായി പറഞ്ഞില്ലെന്നാണു് തൊന്നുന്നതു്.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I think I said that some document was read.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): Yes, two documents were read in the Select Committee.

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എന്നാൽ അതിൽ അഞ്ചു കക്ഷികൾ മാത്രമേ ചേർന്നു രജിസ്റ്റരാക്കീട്ടുള്ളൂ. എങ്കിലും ഈ സംഗതിയെപ്പറ്റി മിസ്റ്റർ സുബ്ബയ്യരും, മിസ്റ്റർ ചങ്ങനാശ്ശേരി പരമേശ്വരൻ പിള്ളയും അനുകൂലമായ അഭിപ്രായങ്ങൾ പറഞ്ഞിട്ടുള്ളതിൽ കൂടുതലായി ഒന്നും തന്നെ പറയേണ്ട ആവശ്യമുണ്ടെന്നു ഞാൻ വിചാരിക്കുന്നില്ല. സിലക്ററു കമ്മിററിയിലേ അംഗങ്ങളായ ഒൻപതുപേരിൽ എട്ടുപേർ പ്രമാണങ്ങൾ പരിശോധിച്ചിട്ടുണ്ടെന്നും, ഒരാൾ മാത്രം പരിശോധിച്ചിട്ടില്ലെന്നുമാണ പറയുന്നതു്. മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളയുടെ ആ അഭിപ്രായത്തിലും ആ മനസ്ഥിതിയിലും ഞാൻ മനസ്താപപ്പെടുകമാത്രമേ ചെയ്യുന്നുള്ളൂ.

(൨) മറെറാരുകാരണം പറയുന്നതു് ആധാരം വീതത്തിലും തായ്വഴിവീതത്തിലും ഇവ രണ്ടിലും ചേരാത്തതും ആയ പ്രമാണങ്ങൾ സിലക്ററു കമ്മിററിയിൽ ഹാജരാക്കീട്ടുള്ളപ്പോൾ ആധാരം വീതം മാത്രം സ്വീകരിച്ചതിനെപ്പറ്റിയാണു്. ഇതിലേക്കു സമാധാനം പറയാൻ പ്രയാസമില്ലാത്തതാണു്. മരുമക്കത്തായം ഈ കാലസ്ഥിതിക്കു യോജിച്ചതല്ലെന്നും ആധാരവീതം ഭാഗമാണു് വേണ്ടതെന്നും മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളതന്നെ വിളിച്ചു സമ്മതിച്ചിട്ടുള്ള സംഗതിയാണു്. അതു പോലെതന്നെ നാഞ്ചിനാട്ടുവെള്ളാളസമുദായാംഗങ്ങളുടെ ഭൂരിപക്ഷം ആളുകളും അതിലേക്കു അനുകൂലികളാണു്. ഈ അഭിപ്രായത്തെ ബലപ്പെടുത്താനായി നാഞ്ചിനാട്ടുവെള്ളാളകമ്മിററിറിപ്പോർട്ടു് വേലമായി സ്വാധീച്ചു നിൽക്കുന്നു. ഇതിനും പുറമേ നാഞ്ചിനാട്ടുവെള്ളാളബിൽ കമ്മിററികൾ രണ്ടിലും മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള അംഗമായിരുന്നിരിക്കുന്നു. അദ്ദേഹം നാഞ്ചിനാട്ടിലെ ഒരു വലിയ കുടുംബക്കാരനും ജനസ്വാധീനമുള്ളയാളുമാണു്. അദ്ദേഹം അവിടെയുള്ള ജനങ്ങളുടെ സൂക്ഷ്മമായ അഭിപ്രായമറിയാൻ സൌകര്യമുള്ളയാളാണു്. അങ്ങിനെയുള്ള മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള നാഞ്ചിനാട്ടുവെള്ളാളകമ്മിററിറിപ്പോർട്ടിൽ യാതൊരു അഭിപ്രായവ്യത്യാസവും കൂടാതെ ഒപ്പിട്ടിരിക്കുന്നു. ഈ സ്ഥിതികളെല്ലാംകൂടി പരിശോധിക്കുമ്പോൾ സിലെക്ററു കമ്മിററിയിൽ നിന്നും ആധാരം വീതം ഭാഗമാണു് നാഞ്ചിനാട്ടുവെള്ളാളസമുദായത്തിനു ആവശ്യമെന്നു വിചാരിക്കുന്നതിനും അതിനെ സ്വീകരിക്കുന്നതിനും അവകാശമുള്ളതാണു്.

(൩) വേറൊരു കാരണം പറയുന്നതു് ൫,൦൦൦-ത്തിൽ പരം ജനങ്ങളുള്ളതായ ഒരു സമുദായത്തിൽ ൩൫൭ പേരുടെ അഭി

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[Mr. T. Kumara Pillai.]

പ്രായത്തെ ഒരു ഭ്രരിപക്ഷാഭിപ്രായമായി ഗണിക്കാൻ പാടില്ലെന്നാണ്.

നായന്മാർ, ഈഴവർ, ക്രസ്ത്യാനികൾ ഇവരുടെ സാമുദായിക നിയമത്തിനുവേണ്ടി രൂപീകരിച്ചിട്ടുള്ള കമ്മിറ്റികൾ വിസ്തരിച്ചിട്ടുള്ളവരുടെ സംഖ്യയും അവരുടെജനസംഖ്യയും കണക്കാക്കുമ്പോൾ നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തിൽ നിന്നും വിസ്തരിച്ചിട്ടുള്ളവരുടെ ശതമാനം ക്കുടുതലായിട്ടാണ് കാണുന്നത്.

(ര) അടുത്തതായി പറയുന്ന മറെറാരു കാരണം നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തിൽ ഭ്രരിപക്ഷാഭിപ്രായം തായ്വഴിഭാഗത്തിന് അനുകൂലികളാണെന്നും, അതുകൊണ്ടാണ് തിരിഞ്ഞെടുപ്പിൽ മെസ്സേഴ്സ് സുബ്രഹ്മണ്യപിള്ള, ശിവതാണുപിള്ള ഇവരെ തിരിഞ്ഞെടുക്കാനിടയായിട്ടുള്ളതെന്നും തായ്വഴി ഭാഗത്തിനു വേണ്ടി വാദിക്കാൻ അവരെ അധികാരപ്പെടുത്തീട്ടുണ്ടെന്നുമാണ്. ഫ്രാൻചൈസ്-ൽ നടന്ന തിരിഞ്ഞെടുപ്പു കാലത്തുതന്നെ നാഞ്ചിനാട്ടു വെള്ളാളബിൽ നിയമസഭയിൽ വാദപ്രതിവാദത്തിനു വരുമെന്നു അവിടെയുള്ള ജനങ്ങൾക്കു അറിയാമായിരുന്നു. ആ കാലത്തു ആൾവീതം ഭാഗത്തിനു അനുകൂലിയായ മിസ്റ്റർ ചിതംബരതാണുപിള്ള തോവാളയിലും മിസ്റ്റർ പി. വി. ഡാനിയൽ അഗസ്തീശ്വരത്തിലും നിന്നു തിരിഞ്ഞെടുക്കപ്പെടുകയായി. ഇപ്പോൾ കഴിഞ്ഞ തിരിഞ്ഞെടുപ്പിൽതന്നെ തായ്വഴി ഭാഗത്തിനുവേണ്ടിവാദിക്കണമെന്നും അങ്ങിനെയുള്ളവരെ മാത്രമേ തിരിഞ്ഞെടുക്കാൻ നിശ്ചയിച്ചിട്ടുള്ളു എന്നും അവിടെയുള്ള വോട്ടറന്മാർ വിജ്ഞാപനങ്ങൾ പരസ്യപ്പെടുത്തുകയൊ, പൊതുജനയോഗങ്ങൾകൂടി നിശ്ചയങ്ങൾ പാസാക്കുകയൊ ചെയ്തിട്ടുള്ളതായി എനിക്കറിയാൻ ഇടയായിട്ടില്ലാ.

നാഞ്ചിനാട്ടു വെള്ളാളസമുദായം ആൾവീതം ഭാഗത്തേക്കാൾ തായ്വഴിഭാഗമാണു താല്പര്യപ്പെടുന്നു എന്നാണ് മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള അഭിപ്രായപ്പെട്ടതു്. അതിലേക്കു പറയുന്ന പ്രധാനകാരണം നാഞ്ചിനാട്ടുവെള്ളാളസമുദായം പൂർവ്വികകാലത്തു മക്കത്തായികളായിരുന്നു എന്നും കാലക്രമംകൊണ്ടു മരുമക്കത്തായത്തിന്റെ ചില നടപ്പുകൾ സ്വീകരിക്കാനിടവന്നു എന്നും, അതിന്റെ ഫലമായിട്ടാണു ഉകന്തുടമാവകാശം വന്നിട്ടുള്ളതെന്നും ആണ്. നാഞ്ചിനാട്ടുവെള്ളാളസമുദായം ഏതു കാലത്തു മക്കത്തായികളായിരുന്നു എന്നും ഏതുകാലത്തു മരുമക്കത്തായികളായി എന്നും അറിയുന്നതിനു യാതൊരു പ്രമാണങ്ങളും കാണാൻ ഇട

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യായിട്ടില്ല. ഈ സമുദായം മുൻകാലങ്ങളിൽ ഏതു ദായത്തെ സ്വീകരിച്ചിരുന്നാലും, അടുത്തകാലങ്ങളിൽ അവർ എഴുതിവരുന്ന പ്രമാണങ്ങളിലും അതിനെ അടിസ്ഥാനമാക്കിയുണ്ടായിട്ടുള്ള കോർട്ടുവിധികളിലും അവർ മരുമക്കത്തായികളാണെന്നു ബോധ്യപ്പെട്ടുന്നതാണു. ഈ സമുദായം മരുമക്കത്തായികളെന്നുവരുമ്പോൾ, കുടുംബത്തിലെ എല്ലാ അംഗങ്ങൾക്കും അതിലെ സ്വത്തിനു് ഒരുപോലെ അവകാശമുള്ളതായി വരുന്നു. നാഞ്ചിനാട്ടു വെള്ളാളസമുദായം മരുമക്കത്തായികളാണെന്നു സ്ഥാപിക്കാൻ ഒരു പ്രയാസവുമില്ലാത്തതാണു്.

ഫ. ഭാര്യക്കും കുട്ടികൾക്കും അച്ഛന്റെ അടുക്കൽനിന്നുംചിലവിനു ചോദിക്കാൻ അവകാശമില്ലാതിരിക്കുന്നു.

ഖ. അച്ഛന്റെ സ്വത്തിൽനിന്നല്ലാതെ അച്ഛന്റെ അച്ഛന്റെ സ്വത്തിൽനിന്നും ഉകുന്തുടമാവകാശം ചോദിക്കാൻ പാടില്ലാതിരിക്കുന്നു.

ന. ഉകുന്തുടമാവകാശത്തിൽ കിട്ടുന്ന സ്വത്തു് സബ്തറവാട്ടു സ്വത്തായിതീരുകയും ആയതു സബ്തറവാട്ടിലെ എല്ലാ അംഗങ്ങൾക്കും അവകാശമുണ്ടായിരിക്കയും ചെയ്യുന്നു.

ര. ഉകുന്തുടമാവകാശമായ പത്തിലൊരു അംശം സ്വത്തുപോകെ ബാക്കിയുള്ള ഒൻപതുപങ്കും ആ കുടുംബത്തിലെ സ്ത്രീകൾക്കാണു് കിട്ടുന്നതു്. അതുകൊണ്ടാണു് അവരെ പുരുഷന്മാരുടെ ക്രൂത്തിൽ ഉൾപ്പെടുത്താത്തതു്.

ഭ. നാഞ്ചിനാട്ടു വെള്ളാളർ അവരുടെ അച്ഛന്റെ സ്വത്തിനു് അവകാശികളായിതീരുന്നില്ല.

ന്യ. നാഞ്ചിനാട്ടുവെള്ളാളസമുദായത്തിൽപെട്ട ഒരാളിനു് അനന്തിരവർ ഇല്ലാതെവരുമ്പോൾ അയാളുടെ തറവാട്ടുസ്വത്തിൽ പത്തിൽ ഒന്നും, സ്വന്തസമ്പാദ്യത്തിൽ ഏഴിൽ ഒന്നും കിട്ടുന്നു. സ്വന്ത സ്വത്തിൽ ഏഴിലൊരുഭാഗം സ്വത്തു മക്കൾക്കു ഉകുന്തുടമാവകാശം കിട്ടുകയല്ലാതെ ബാക്കി സ്വത്തുമുഴുവൻ സർക്കാരിലേക്കാണു് ചെല്ലുന്നതു്. ഇങ്ങനേയുള്ള അവസരങ്ങളിൽ ഉകുന്തുടമാവകാശത്തിനു സർക്കാരിനെ പ്രതിയാക്കി വ്യവഹാരം കൊടുക്കേണ്ടതായിരിക്കുന്നു.

ൈ. സമുദായനടപ്പനുസരിച്ചും ചട്ടപ്രകാരവും സ്ത്രീകൾക്കു അച്ഛനോടുകൂടി സ്ത്രീധനം ചോദിക്കാനും കൊടുക്കാനും അവകാശമില്ലാത്തതാണു്.

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[Mr. T. Kumara Pillai.]

വ. നാഞ്ചിനാട്ടുവെള്ളാളസമുദായത്തിലെ സ്ത്രീകൾക്കു മറ്റു മരുമക്കത്തായ സമുദായങ്ങളേപ്പോലെ പുനർവിവാഹം അനുവദിച്ചിരിക്കുന്നു.

ൻ. മറ്റു മരുമക്കത്തായകുടുംബങ്ങളിലെ സ്ഥിതിപോലെ വയസ്സിനു മൂത്ത ആൾ ശേഷക്കാരനായിരുന്നാലും അയാൾ കുടുംബത്തിൽ കാരണവനായിതീരുന്നു.

ഫ ഠ. മരുമക്കത്തായകുടുംബങ്ങളുടെ സ്ഥിതിപോലെ തറവാട്ടിലുള്ള എല്ലാ അംഗങ്ങൾക്കും ഒരുപോലെ ചിലവിനുചോദിക്കാൻ അവകാശമുണ്ടായിരിക്കുന്നു.

ഫ ഫ. കുടുംബസ്വത്തിനെ വിഭജിക്കാറാകുമ്പോൾ അതിൽ പ്രായപൂർത്തിവന്നിട്ടുള്ള സകല അംഗങ്ങളും, മൈനറന്മാർക്കുവേണ്ടി അവരുടെ സംരക്ഷണകർത്താക്കന്മാരും ചേരേണ്ടതായിരിക്കുന്നു.

ഫ ഠ വ്യവസ്ഥയിലെ നായർറഗുലേഷൻ പിന്നീടു അവകാശികൾ ഇല്ലാതെ വരുമ്പോൾ മുഴുവൻസ്വത്തും മക്കൾക്കു കിട്ടുന്നു. നാഞ്ചിനാട്ടുവെള്ളാളസമുദായക്കാർക്ക് അങ്ങിനെകിട്ടുന്നില്ല. ശരിയായ മരുമക്കത്തായികൾ അവരായിട്ടാണ് ഇപ്പോൾ ഗണിക്കേണ്ടതു്.

ഇങ്ങനെയുള്ള നിയമങ്ങളും ഇങ്ങനെയുള്ള നടപ്പുകളും വച്ചുകൊണ്ടിരിക്കുന്ന നാഞ്ചിനാട്ടുവെള്ളാളസമുദായം മുമ്പു മരുമക്കത്തായികളായിരുന്നുഎന്നോ മരുമക്കത്തായത്തിന്റെ ചില ചടങ്ങുകൾ പിന്നീടുള്ള കാലങ്ങളിൽ വന്നുചേർന്നതാണെന്നോ പറയുന്നതിനു ഒരു യുക്തിയും അർത്ഥവുമില്ലാത്തതാണു്.

ഉകുന്തുടമാവകാശം ഒരുകാലത്തു മക്കത്തായം സ്വീകരിച്ചിരുന്നതിന്റെ ഒരു അവശിഷ്ടമാണെന്നും അതിനാൽ നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തെ മറ്റു മരുമക്കത്തായികളുടെ നിലയിൽ ഗണിക്കാൻ പാടില്ലെന്നുമാണ് മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളയുടെ മറ്റൊരുവാദം.

ഉകുന്തുടമാവകാശത്തെപ്പറ്റി നോക്കുന്നതായാലും ഓരോ കാലങ്ങളിൽ ഓരോമാതിരി വിധികളാണ് ഉണ്ടായിട്ടുള്ളത്. ഉകുന്തുടമാവകാശം മക്കത്തായത്തിന്റെ ഒരു അവശിഷ്ടമാണെന്നുള്ള വാദത്തിനു വല്ല വാസ്തവവും ഉള്ളപക്ഷം കോടതികളിൽനിന്നും ഓരോ കാലങ്ങളിൽ ഓരോ

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മാതിരി വിധികളുണ്ടാകുന്നതിനും ആ തീർപ്പുകളിന്മേൽ സമുദായാംഗങ്ങൾ അടങ്ങിപാർക്കുന്നതിനും ഇടയില്ലാത്തതാണ്. ഈ കാരണങ്ങളാൽ ഉകുന്തുടമാവകാശം അച്ഛൻ മക്കൾക്കു നേരിച്ചു കൊടുക്കുന്ന സ്വത്താണെന്നും, അതു ആ സമുദായത്തിൽ ഇടക്കാലംമുതൽ വന്നിട്ടുള്ളതാണെന്നും, അത്ഥമാക്കാമെന്നല്ലാതെ നാഞ്ചിനാട്ടുവെള്ളാളസമുദായം ഒരുകാലത്തു മക്കത്തായികളായിരുന്നു എന്നും അതിന്റെ അവശിഷ്ടമാണ് ഉകുന്തുടമാവകാശമെന്നും ഉള്ള വാദങ്ങൾ ഒരിക്കലും നിൽക്കത്തക്കതല്ലാ.

ഈബിൽ നിയമമായി വരുമ്പോൾ കാരണവന്മാർക്കു സങ്കടത്തെയുണ്ടാക്കാതിരിപ്പാൻനിവൃത്തിയില്ലാത്തതാണെന്നു് സമ്മതിക്കാതെ തരമില്ല. മരുമക്കത്തായകുടുംബത്തിൽ എല്ലാ അംഗത്തിനും ഒരുപോലെ അവകാശമുള്ളപ്പോൾ ആഭ്യന്തരഭാഗത്തിൽ സങ്കടപ്പെടുന്നതിനോ അതിനെ തടുക്കാൻ ശ്രമിക്കുന്നതിലോ പ്രയോജനമുണ്ടെന്നു തോന്നുന്നില്ലാ.

നാഞ്ചിനാട്ടുവെള്ളാളസമുദായം ഏറ്റവും വഷ്കാലമായി പ്രതീക്ഷിച്ചുകൊണ്ടിരിക്കുന്നതും ഇപ്പോൾ നിയമസഭയിൽ പരിശോധനയിലിരിക്കുന്നതുമായ അവരുടെ സാമുദായികനിയമത്തെ അകാരണമായി ഇനിയും താമസിപ്പിക്കാൻ ശ്രമിക്കുന്നതു ഒരിക്കലും വിഹിതമായിട്ടുള്ളതല്ലാ. അതിനാൽ സിലക്ട് കമ്മിറ്റിയിൽനിന്നും വന്നിട്ടുള്ള ഈ ബില്ലിന്റെ തത്വങ്ങളെ അടിസ്ഥാനമാക്കി നിയമസഭയിൽ പാസാക്കുന്നതു നന്നായിരിക്കുമെന്നാണ് എനിക്കു അഭിപ്രായമുള്ളതു്.

The House adjourned for lunch at 1-42 P. M. and re-assembled at 2-45 P. M., the Deputy President presiding.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Sir, I am really surprised that there should have been a very hot discussion in regard to an amendment which, as I understand, was in terms of a compromise entered into between the two opposing views as represented in this Council. Sir, on Monday last, there was a sharp conflict of opinion in regard to the method of partition, between my friends Messrs. M. Subrahmanya Pillai and Sivatanu Pillai on the one hand, and Messrs. S. Subrahmanya Pillai and M. Velu Pillai on the other. On Tuesday morning, it was exceedingly refreshing for us to know that the representatives of both parties stated openly that they had come to an agreement on the basis and on terms identical with that contained in the amendment just now before the House. I distinctly remember that, when Mr. Subrahmanya Pillai asked permission of the House to withdraw his motion for recommitting the Bill to another Select Committee, he expressly stated that he was doing it, because there was a

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settlement in sight between the two parties in regard to this most vexed question. He also stated what the basis of the settlement was. I must say that, when that motion was duly put forward, there was not one dissentient voice in this House questioning the voluntary nature of the agreement arrived at between the two parties. On the other hand, we had it definitely from Mr. S. Subrahmanya Pillai, co-opted member, that he too was quite agreeable to such a course being adopted.

It is really unfortunate that, in the case of the Nanjanad Vellala Bill, we are confronted with a series of approvals and disapprovals from every member of the contending parties at successive stages. We find parties who originally subscribed to the report stating their disapproval of what is contained in the report in the strongest terms. We find members, who gave evidence before the Committee, expressing particular opinions and withdrawing them at successive stages. The latest instance, really unfortunate, of this is that of one of the members of this Council, a co-opted member, withdrawing, or seeking permission to withdraw, justifying himself in such withdrawal, from what he admittedly said on Monday last. So much so it is not safe for this House to depend upon the expression of opinion of any particular individual or groups of individuals in respect of this matter at any particular stage. It is therefore all the more safe that we depend for our decision upon some settlement which seems to have been effected to the knowledge of the Council, in open Council, and when the Council was in session; statements made as to whether settlements have been reached or statements affirmed in regard to settlements by members who are most interested in the matter should be given value.

It is not right on our part, when discussing this particular amendment, that we should discuss the comparative merits of *per capita* or *per stirpes* division or a compromise between the two. For this reason, the Nanjanad Vellala Bill is intended to affect the Nanjanad Vellala community and in this Council we have got two representatives, one representing one particular set of views and another just the other, and they have been co-opted with that purpose in view. I do not think any section of the community ever repudiated the claim of the co-opted members to represent a particular section of opinion in this Council. Having then accepted the co-opted members in this Council to be representing the *per capita* view, how can it be said, and under what authority will this House be justified in coming to a conclusion that they have veered round to the compromise on account of motives which ordinarily we could not attribute to them at all? I fail to see where the fraud or pressure or undue influence came in upon any particular member representing the *per capita* view when he made that statement that he had no objection to accept the compromise. This House should be, unless it stultifies itself, very careful in accepting such asseverations made by particular members, of undue pressure and undue influence in

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making admissions and statements before this House. It is therefore up to this Council to view the question in its broad aspect, take everything into consideration and then declare in favour of the view put forward by representatives of the community which wants that particular view to prevail.

MR. A. K. PILLAI (*Karunagapalli*): May I know whether the President considers this as relevant to the amendment or as a sermon to the House?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I thought these were the only facts relevant to the discussion of the amendment and I thought the merits of the *per capita* or *per stirpes* division were absolutely irrelevant unless we had a motion for *per capita* or *per stirpes* division; it was entirely irrelevant to go about discussing the merits of that position. When I thought that we were discussing the terms of a compromise between two parties who are most intimately affected by this transaction, I am bound to submit to the House the views that should guide the decision of the House in such a matter. Now, Sir, there are four members representing the Nanjanad Vellala community. Although all the four were originally in favour of this compromise, I find now that only three of them are in favour of this compromise. So then we find that at least three-fourths representing that community are in favour of this amendment. And I do not see how this House can impose upon them any law which three-fourths of the community do not wish to have. That is the position we are now at. It is not a case where we have to pass a decision on the merits of *per capita* or *per stirpes* division. We have to pass a decision upon an amendment which forms the basis of settlement of two opposing sections of the community.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Does he mean to say that the members of this Council have no individual opinion of their own in the matter?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I suppose they will be then no more Councillors if they have no individual opinion upon any matter before the House.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Are they then bound by the compromise?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): The members are not "*bound*" by anything, in the sense in which he uses the word '*bound*.' They are to adopt the view that the community have adopted after discussion between themselves; but when there is a conflict of opinion, the members of this Council are not bound to adopt one view or the other. I say they are justified in adopting this view when there is no other view.

MR. X. G. LOPEZ (*Nominated*): May I ask whether the two members will stand by their present views, considering the past history of the members?

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MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): We are not concerned with whether they will recant or not recant at the next moment. I have no faith in any particular opinion being held for a length of time or in any person sticking to his opinion from day to day. It is not so, as can be seen from the past history. Let us take thought therefore betimes and act betimes.

MR. T. KUMARA PILAI (*Kalkulam* cum *Vilavankod*) : അതായതുവോട്ടിനിടാൻ പോകുന്നതിനു മുമ്പുള്ള അഭിപ്രായം ഏതാണോ അതു തന്നെ സ്വീകരിക്കണമെന്നാണോ പറയുന്നതു്?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : വോട്ടിനിടാനുള്ള അവസരത്തിൽ വോട്ടിനിടുന്നതിനു മുമ്പായി ഏതാണോ ഓരോസിന്റെ അഭിപ്രായം അതനുസരിച്ചു സ്വീകരിക്കണം.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : നാഞ്ചിനാട്ടു വെള്ളാളരിൽ മെംബറന്മാർ ഭൂരിപക്ഷം അള്ളകളും ഓരോ അവസരങ്ങളിൽ ഓരോമാതിരി അഭിപ്രായങ്ങളും പറഞ്ഞിട്ടുള്ളതിനാൽ ഏതിനെയാണു് സ്വീകരിക്കേണ്ടതു് ? ഇപ്പോൾതന്നെ ഒരേ അഭിപ്രായത്തിൽ മൂന്നു മെംബറന്മാർ യോജിച്ചിരിക്കുന്നതുകൊണ്ടു അതിനെ സ്വീകരിക്കണമെന്നാണോ പറയുന്നതു്?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : രണ്ടു കൂട്ടരുടേയും അഭിപ്രായം ഒരിക്കലും ഇതിനു മുമ്പു യോജിച്ചിരുന്നില്ല. ഇപ്പോൾ യോജിപ്പുള്ളതുകൊണ്ടു് അതിനെ സ്വീകരിക്കണമെന്നു മാത്രമേ പറയുന്നുള്ളൂ. അതുപോലുള്ള അഭിപ്രായം ഏതെല്ലാം അവസരത്തിൽ വരുമെന്നു ഞാൻ പറയുന്നില്ല. പറയേണ്ട ആവശ്യവുമില്ല. ഏതഭിപ്രായത്തിലാണോ അവർ യോജിപ്പുള്ളതായി കാണുന്നോ അതിനെ സ്വീകരിക്കണമെന്നാണു് പറഞ്ഞതു്.

MR. A. K. PILLAI (*Karunagapalli*) : കക്ഷികൾ രാജിയാകാൻ വക്കീലന്മാരെ—

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : The member is out of order in speaking in Malayalam.

MR. A. K. PILLAI (*Karunagapalli*) : May I know from Mr. Parameswaran Pillai whether, when parties approach vakils for compromise, the vakils have to consent to the same ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : If it is reasonable, the vakils have to accept the same, whatever may be the sharp difference of opinion among the parties.

MR. A. K. PILLAI (*Karunagapalli*) : May I know from the member whether the position of this Council is the same as that of a vakil ?

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MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I am not sure. As Council members, we have got our own decisions to arrive at ; and whatever might be considered reasonable we have to accept. Here is a reasonable proposal, a proposal which has the support of three-fourths of the members representing the community.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Does the member mean to say that the Council members should have no individual opinion of their own ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : No. What I say is that we will not be justified in acting contrary to the wishes of a particular community whom we are going to bind. Further, individual will has absolutely no place in a matter like this when you want to impose that will upon an unwilling community.

MR. K. I JOSEPH (*Minachil* cum *Devicolam*) : May I know from the member whether, if the principle that is advocated by one fourth of the population of the community is more reasonable than the other one, this House is bound to adopt the principle advocated by the three-fourths of the members of the community present here ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : That is exactly the question. In judging what is reasonable and what is not reasonable, we should be guided by the majority of opinion of the representatives of the particular community who are giving us the views in regard to what should be their law.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : May I know from Mr. Paramesvaran Pillai whether he wants us to be bound by the opinion of three-fourths of the members representing the community or does he want us to look to the opinion of the members of the community as a whole ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : We are not going to look into the opinion of the members of the community as a whole when they have their own representatives here.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : As there is at least one member who is in favour of *per capita* system in this House, is not this House bound to enquire into the external complaints also and see what the real wishes of the community are ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : In coming to a decision I say that we should accept the reasonable opinion put forward by the majority of the representatives of the community.

MR. A. K. PILLAI (*Karunagapalli*) : What is the authority to say that they represent the opinion of the community ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : I think that is a matter quite obvious. The co-opted members who came in here would not have been here but for the fact that they were intended to represent the Nanjanad Vellala community.

MR. A. K. PILLAI (*Karunagapalli*) : May I know from the member whether, when the two co-opted members were nominated, it was

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[Mr. A. K. Pillai.]

not the impression they represented another view and that now they have changed that view.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I think a representative in this House is not bound to reflect whatever a minority may think about a measure, and I do not think that there is any justification for that whatever as we have not any referendum taken. Then how is it possible for my friends to say that what they represent is not the view of the majority of the community? I also fail to understand on what basis they say that. They may have individual members outside the Council hall going over to them and telling them that this is not the view of the community. I only want this House to come to a decision before they themselves organise a way of ascertaining the wishes of the community.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഓരോ അവസരത്തിലും ഓരോ അഭിപ്രായം പറഞ്ഞിട്ടുള്ളതുകൊണ്ട് ഇപ്പോൾ പറയുന്ന അഭിപ്രായം വിലയുള്ളതായി എങ്ങിനെ ഗണിക്കാം?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): അതുകൊണ്ടെന്താണ് വേണ്ടതു്? തീച്ചുചെയ്തല്ലേ കഴിയൂ.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): That is a different matter. ഓരോ അവസരത്തിലും ഓരോ അഭിപ്രായം പറയുമ്പോൾ ആ അഭിപ്രായങ്ങളെ എങ്ങിനെ വിലവയ്ക്കാൻ സാധിക്കും?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): അതു വിലവച്ചില്ലെങ്കിൽ പിന്നെ ഏതാണ് വിലവയ്ക്കേണ്ടതു്?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അതു ആലോചിച്ചുനിശ്ചയിക്കേണ്ടതു നിയമസഭയുടെ ജോലിയാണ്.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): അതാണ് ആലോചിച്ചുപറയണമെന്നു പറഞ്ഞതു്. ഏതെങ്കിലും ഒരഭിപ്രായത്തോടുള്ളരി പക്ഷം യോജിച്ചുകണ്ടാൽ അതു സ്വീകരിക്കണം.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): May I know from Mr. Paramesvaran Pillai whether, out of four members in this Council representing the Nanjanad Vellala community, there has been at least one member who has been consistent in his views?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I cannot be blamed for that.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I want only the information.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I suppose Mr. Sivatanu Pillai has been consistent except by way of one fact, namely, that he has conceded a bit to-day. Except to consent to this compromise, I do not think he has committed any other error. If, by compromising and by giving way towards a settlement, he has committed a crime, he

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is guilty of that crime. Otherwise he has been consistent throughout. I cannot really understand how this Council can be told that the community is for this or the community is for that at this particular stage.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): എന്റെ കമ്മ്യൂണിട്ടിയിൽ ഉള്ള മൂന്നുപേർ ഒരുഭാഗം പാസ്സാക്കണമെന്നും ഒരാൾ വേറെ ഒരുഭാഗം പാസ്സാക്കണമെന്നും പറയുന്നു. അതിൽ ഏതാണ് വേണ്ടതു്?

MR. G. PRAMESVARAN PILLAI (*Neyyattinkarā*): അതിൽ ഏതാണൊ റീസണബിൾ ആയിട്ടുള്ളതു അതുവേണം പാസ്സാക്കാൻ.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ഏകഭായ്ത്വത്തെപ്പറ്റി വോട്ടെടുത്തപ്പോൾ അതിൽ നിങ്ങൾ ആരുടെ അഭിപ്രായമാണ് വലവച്ചതു?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): ഞാൻ വിലവച്ചതു ഒരാളുടെ അഭിപ്രായമാണ്. അതു വളരെ റീസണബിൾ ആണെന്നു തോന്നുന്നുണ്ടു.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): ആ സ്ഥിതിക്കു ഹൌസിന്റെ എല്ലാ അഭിപ്രായങ്ങളും ചേർത്തു ഒരു നിയമം ക്രോഡീകരിക്കേണ്ട ആവശ്യമില്ലെന്നു പറയാൻ സാധിക്കുമോ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*: മനസ്സിലായില്ല.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): എന്റെ കമ്മ്യൂനിട്ടിയിലുള്ള ര് പേരെ കൂടാതെ ബാക്കിയുള്ളവരുടെ ഭൂരിപക്ഷം എടുക്കണ്ടേ?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): ബാക്കിയുള്ളവർ എന്നു പറഞ്ഞതു ഈ കൌൺസിലിൽ ഉള്ളവരാണോ?

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): അതെ.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): അതു വേണമെല്ലോ. തീച്ചയായും വേണം.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): In the light of the admission made by the member, is it not his duty to explain the reasonableness of his position?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): It is exactly where I am. I am very glad that Mr. Joseph has at last seen my point (*laughter*). If the amendment now put forward appears to be reasonable and proper, I want this House to accept this amendment. I am strengthened in that view by the majority opinion of the representatives of the community and also I may say by the unanimous opinion of the community. I say that, because Mr. Subrahmanya Pillai who recanted

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[Mr G. Paramesvaran Pillai.]

the statement of Monday last, said that he was expressing the opinion of the community. So what I want to submit is that we have got the unanimous expression of opinion of the representatives of the Nanjanad Vellala community in favour of the amendment. Therefore I should consider it absolutely reasonable not to impose upon a community a law—

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അങ്ങിനെ നോക്കുന്നപക്ഷം മിസ്റ്റർ വെള്ളാപ്പിള്ളയുടേയും മിസ്റ്റർ തേങ്ങാ സുബ്രഹ്മണ്യപിള്ളയുടേയും അഭിപ്രായങ്ങൾ ആളോഹരിഭാഗത്തിനു അനുകൂലമായിട്ടാണ് ഇരുന്നിട്ടുള്ളത്.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): ആയിക്കൊള്ളട്ടെ.

With these words, I support the amendment of Mr. Sivatanu Pillai.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, I have great pleasure in supporting the amendment brought forward by Mr. Sivatanu Pillai and my reasons are the following. In matters of social legislation, what must guide us is what the customs of the community are for which the proposed legislation is intended. In the matter of partition, both parties now reiterate that, according to the customs of the community, it is in the way in which they want it. That is, the community is partitioning their properties some saying it is *per stirpes* and others saying *per capita*. Therefore, the question before us is what is the custom that really prevails among the community. On going through the Report of the Select Committee which examined documents for the purpose, I find the following statement—

"There are documents evidencing *per stirpes* partition, there are also documents evidencing *per capita* partition and there are again documents which establish neither the one nor the other."

According to me, the Select Committee Report is therefore a sufficient authority to hold that, according to the customs of the community, partition is effected both by the *per capita* and by the *per stirpes* systems. It therefore behoves this Council, which has only to reflect the wish of the community and the custom of the community, to effect such a piece of legislation as would perpetuate the custom evidenced by the Select Committee Report. The enactment proposed by the Select Committee advocated *per capita* system, and one party in the community supported it whilst the other party contended that partition must be by *per stirpes*. I say I am glad and I have great pleasure in supporting the amendment of Mr. Sivatanu Pillai because, according to me, it is only by such an amendment that the real custom of the community can be brought into effect in the piece of legislation we are now proposing to enact. I submit that neither the *per capita* system advocated by the Select Committee nor the *per stirpes* system advocated by the other side really reflects the real wishes of the community or the customs in the community. Though the majority of the Select Committee were of

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opinion that *per capita* division would be more reasonable, we had it from the mouth of the Deputy President that the only reason which made them adopt that course was the fact that, in the Nayar Regulation, which governs a pure *Marumakkathayam* system of inheritance, it was adopted. That was the only reason which made them adopt such a course. On this point, the Report of the Committee says—

"We have discussed and considered the various points placed before us and we think that *per capita* division is the just and more reasonable course to adopt."

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Is that not a sufficient reason to show that it was considered?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I think this House also can discuss and consider it.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): All right.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): That is what we are doing. The opinoin of the majority of the members of the Select Committee was arrived at by a discussion among themselves and not based upon any fact. It is that point that I want to bring to the notice of the House. The report is neither based upon the existing custom prevalent among the community nor upon the strength of the evidence they took, but it was rather based upon the personal opinion of the majority of the members.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Is it his personal opinion?

MR. T. J. MATTHEW (*Changanachery* cum *Devicolam*): The members of the Committee themselves say that, from the documents they examined, they are not able to arrive at a conclusion, as *both* these systems are prevalent among the community. If I am to understand that to mean that they were of opinion that there was a particular custom in existence, I fail to see why they could not have expressed themselves in more definite terms.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Will the member kindly refer to the sentence in the Report which says—

"We are therefore unable to find that a definite usage with regard to *per stirpes* partition has been established, so as to affect the vested rights of the members of *Marumakkathayam tarwad*."

from which may be found that the Committee has not given proper reasons for *per stirpes* partition?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I believe that statement was made because they were arguing against *per stirpes* division and advocating *per capita* division.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know from the member whether he has been engaged for the purpose of supporting *per stirpes* system, or whether the Committee was appointed to oppose that system?

DEPUTY PRESIDENT: That is irrelevant.

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MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I have not before me the power of attorney given by the House to the Select Committee.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Does the member mean to say that they wanted to argue and support the idea of *per capita* division? My own opinion is that the Committee had to view the whole question of *per capita* and *per stirpes* impartially.

DEPUTY PRESIDENT: Even an impartial consideration of the question requires argument. Anyhow, that question does not arise now.

MR. T. J. MATTHEW (*Changnachery* cum *Peermade*): Now the majorityof the Committee, as I stated, were unable to say what was the real cust om existing in the community. According to them, both these practices were prevalent. However, two members of the Committee, Messrs. P. V. Daniel and P. K. Narayana Pillai, advocated a *via media*. It seems to me what they said when they wanted to adopt a *via media* was that they wanted to reflect the custom that was prevalent in the community. Mr. Paul V. Daniel is a person coming from the Agastisvaram taluk where the Vellala community form a majority of the population. He definitely advocates these principles which the present amendment wants to perpetuate. In his own desenting minute, he says:—

"My sincere conviction is that this is possible if one-half of the existing *tarwad* property is divided *per stirpes* and the other half divided *per capita*.

It is this suggestion that has been embodied in the amendment. Mr. P. K. Narayana Pillai, though he does not say which system should be adopted definitely, thinks that a *via media* satisfying the community as a whole would be a welcome course to adopt. Mr. P. K. Narayana Pillai, as we all know, is a very erudite lawyer and a person well experienced in matters of legislation and in studying the customs and manners of the people. Therefore what I wish to bring to the notice of this House is that, even on going through the merits of the case, we cannot pronounce now that the community is following, in matters of partition, *per capita* division. How is it then that we are asked to impose *per capita* division upon a community which has not been consistently following it? So from the Report itself, the reasonable course to pursue would be to adopt the terms embodied in the amendment.

Another method of gauging the real wish of the community and the real customs and manners existing in the community is to know the present wish of the community. I would say that wish can only be known through elected representatives, and it is impossible for us to go to each individual member to know what he wants. We have four elected members from the Nanjanad Vellala community.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I know from the member whether those members were elected from the Nanjanad Vellala community?

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MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I would willingly correct myself as "from the country where the Najinad Vellalas live."

MR. A. K. PILLAI (*Karunagapalli*): May I tell the member that, in the last Council when the Bill was introduced, it was a Christian who represented the particular taluk and not a Vellala, though Vellalas were predominant in number in that constituency.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I would admit Mr. Daniel is a Christian. I would also say that that gentleman who represented that taluk wherein Nanjanad Vellalas abound advocates the present compromise.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Owing to the re-allocation of taluks in recent elections, may I ask the member whether the constituency which was represented by Mr. Daniel any more exists?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I believe that there has been a reconstitution of constituencies.

MR. N. V. JOSEPH (*Parur*): Is there any rule which says that a Christian should not be returned from a constituency where Vellalas predominate?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I believe that was not what was intended by Mr. A. K. Pillai when he asked the question.

MR. A. K. PILLAI (*Karunagapalli*): Is the member aware that one from the Vellala community was defeated and Mr. Daniel returned to the Council during the last election?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I do not know who stood against him. But I know that the person who stood against Mr. Sivatanu Pillai was a Vellala and he was defeated.

MR. M. SIVATANU PILLAI (*Tovala*): Is the member aware that a person belonging to the Vellala community who stood against Mr. Subrahmanya Pillai at the recent elections forfeited his deposit?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I learned it from Mr. Subrahmanya Pillai or Mr. Sivatanu Pillai the other day.

MR. A. K. PILLAI (*Karunagapalli*): Does the member know that that member did not belong to that taluk?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I do not know to which taluk these candidates belonged. These two representatives coming from South Travancore and belonging to the community say vehemently that they advocate the system of *per stirpes* partition and that contrary to the opinion expressed in the Select Committee and in the Enquiry Committee Reports. When I read the Reports, I was at that time really in a dilemma why they so vehemently advocated *per stirpes* system.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I rise to a point of order whether Mr. G. Paramesvaran Pillai is in order as he is not in his seat.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I am perfectly in order, Sir, as I am not speaking. A member should be in his seat only when speaking. (*Laughter.*)

DEPUTY PRESIDENT: Yes, that is all. Mr. Paramesvaran Pillai is perfectly in order.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Messrs. Subrahmanya Pillai and Sivatanu Pillai were advocating *per stirpes* partition, and I think that everybody would be impressed that there was something wrong in the opinion expressed by the Select Committee. They would not have taken up that cause unless they had a very strong backing at least from a strong minority.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ആ അഭിപ്രായം കിട്ടിയതെങ്ങിനെയാണെന്നു പറയുമോ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Unless it be that what they fought for was the good of the community, and unless they had some gentlemen to support them they would not have themselves come forward to put their views in such strong terms.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): രണ്ടു മെമ്പറന്മാർ ശക്തിയോടുകൂടി വാദിച്ചാൽ പുറമേയുള്ള ഞങ്ങളുടെ അഭിപ്രായം അതാണെന്നും ആ അഭിപ്രായത്തിൽ അവർ അനുകൂലിക്കുമെന്നുമാണൊ അത്ഥമാക്കുന്നത്?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I believe I would not be far wrong in inferring that.

MR. C. P. TARAKAN (*Kunnatnad*): ഈ സംഗതിയേ സംബന്ധിച്ചു തന്റെ മെമ്പർസ്ഥാനം രാജിവച്ചു റീഎലക്ഷനു നില്ക്കാമെന്നു പറഞ്ഞതായി അറിയാമോ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): അതു പ്രൊസീഡിംഗ്സിൽ രേഖപ്പെടുത്തീട്ടുണ്ടാവും. അതു നോക്കിയാൽ അറിയാം.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Sir,—

DEPUTY PRESIDENT: You are out of order in speaking not from your seat.

MR. N. V. JOSEPH (*Parur*): May I know whether a member cannot put a question from another's seat?

DEPUTY PRESIDENT: Questioning is speaking, and therefore he is not in order.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Of the four members in this House, who belong to the Nanjanad Vellala community, two are for *per capita* and the other two for *per stirpes*

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The *per capita* members at first stated that they were for *per capita* division ; and, if I remember well, they stated that it was the wish of the community also. Subsequently, when it was suggested that the matter might be compromised for the good of the community, they also agreed to the terms of the compromise now brought forward in the shape of an amendment by Mr. Sivatanu Pillai. Therefore my submission is that, if they have authority to plead for *per capita* division, as representatives of the community, they have also authority to advocate any compromise that would effectively bring forward a beneficent measure for the good of their community in the opinion of the two members. That is exactly what they have done. Therefore, we have now before us, as Mr. G. Paramesvaran Pillai stated, only the retracted opinion of Mr. S. Subrahmanya Pillai, against the amendment, who pleaded before us the cause of the Nanjanad Vellala community or of that portion of the community which advocates *per capita* system of partition.

As regards the compromise that was effected, I have to state that it must be taken as an index of the wish of the community and in that way as the index of the existing custom in the community. If the community as a whole were so much dead against *per stirpes* division or for any *via media* measure, I am sure the two co-opted members would never have agreed to the course. The very fact that they willingly agreed to the compromise clearly shows that the community which they represent would not be in any way prejudically affected by that.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : കോവാ
ചെഡ് മെമ്പർമാർ ആരുടെ പ്രതിനിധ്യമാണ് വഹിക്കുന്നത്?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : The very expression says that, and I suppose no information is necessary on that point.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : Did not one of the co-opted members say that he entered into the compromise owing to pressure applied ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Mr. Velu Pillai said that he *willingly* entered into the compromise. It was Mr. S. Subrahmanya Pillai who referred to coercion and all that. In all these matters, when the representatives of the community come forward and say that they compromise in a certain way, my submission is that that must be taken to be the wish of the community. Of course, the question of power and jurisdiction are all apart from the question now under discussion. One of the members of this House has been saying that we are not bound by the terms of the compromise and that we have power to reconsider the question. This is not a question of jurisdiction. This is a question of expediency and reasonableness. The question is as to which is the more reasonable of the two proposals.

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MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : ഒരു കമ്മൂനിറിക്കാർ ഒരിക്കൽ സഭയിൽ ഒരു ബിൽ ഹാജരാക്കിയാൽ അതുനോക്കാതെ പാസ്സാക്കാമെന്നാണോ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I do not understand it

MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : ഒരു കമ്മൂനിറിയിലുള്ള ആളുകൾ ഒരു ബിൽ ഹാജരാക്കിയാൽ അതിനെപ്പറ്റി യാതൊന്നും നോക്കാതെ പാസ്സാക്കാമെന്നാണോ വിചാരിക്കുന്നത്?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : ഈ ബില്ലിനെസംബന്ധിച്ചു നാഞ്ചിനാട്ടുവെള്ളാള സമുദായത്തിലുൾപ്പെടാത്ത ആളുകൾ ഒന്നുംപറയാൻ പാടില്ലെന്നുള്ളതു ഞാൻ ഇതുവരെ അറിഞ്ഞിട്ടില്ല.

I have only to refer to one other circumstance. After all, what is the effect of the amendment now proposed? The Nanjanad Vellala Bill, so far as I understand it, embodies several sections, and the most important of them is certainly not this section, But, I must say that, in matters of violent changes in principle, this is not even *one of the most important* sections. The sections dealing with monogamy and *makkathayam* are the most important sections. Those are the sections that really deviate from the existing customs. We have found that the community is unanimous in all those matters. There is no difference of opinion whatsoever. Even as regards the principle of individual compulsory partition, there is no dissentient opinion. Section 30 says—

"Every member of a *tarwad* shall be entitled to claim his or her share of the properties of the *tarwad*."

That is really the most important section in the Chapter on partition. With regard to that section, nobody raised a finger. Section 31 only deals with the method of partition. There is no principle of law involved in it. It is only a question of a few rupees more or less which a person will get at the time of partition. It is about that that such a big fight is going on.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : Is Mr. Matthew aware that vested interests of the members of the family are affected, and that, therefore, it is a question of principle and not merely the question of a few rupees.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : I only said that the parties will be affected to the extent of a few rupees. That cannot be a question of principle of law, according to me.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Whatever be the method of partition that is adopted, vested interests will be affected one way or the other, I suppose.

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MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Therefore, in all matters relating to questions of principle, there has been no dissention at all. There has been absolutely no difference of opinion. But, when it came to the question of particular individuals getting a few more cash, there has been such a big clash.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): പത്തു രൂപാ ശമ്പളത്തിനു നിയമിക്കുന്നതിനെ സംബന്ധിച്ചു ഇപ്പോൾ നടക്കുന്ന വഴക്കിനെ സംബന്ധിച്ചു മിസ്റ്റർ മാത്യൂവിനറിയാമോ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): എനിക്കറിയാൻപാടില്ല.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ജനസംഖ്യകണക്കനുസരിച്ചുള്ള ഉദ്യോഗം കിട്ടണമെന്നു വഴക്കുപിടിക്കുന്നതുകാലത്തു ഈ കുറച്ചുരൂപായെപ്പറ്റി ഒരു സമുദായക്കാർക്കു സങ്കടം ഉണ്ടാകാൻ ഇടയുണ്ടാകയില്ലേ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I do not think the analogy holds good. It is admitted that, if this Regulation is passed, the Nanjanad Vellala community, which is now a *marumakkathayam* community, will be suddenly changed into a *makkathayam* community. After the Bill becomes law, all the properties, which a Vellala possesses, will descend to his sons, and that property will be subsequently divided, in partition, *per stirpes*. I do not see the reason why the members should be afraid of *per stirpes*, when it is a question of particular individuals getting a few more rupees.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഇപ്പോൾ വീതിക്കാൻപോകുന്നതു തറവാട്ടിൽ ഉള്ള സ്വത്താണെന്നും രണ്ടാമതു വീതിക്കാൻപോകുന്നതു ഒരാളിന്റെ സ്വന്തസമ്പാദ്യമാണെന്നും ഓർക്കുന്നുണ്ടോ?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Yes; and after partition, I believe, the *tarwad* property, which the individual members get by partition, will descend to the sons of those individual members.

MR. M. SIVATANU PILLAI (*Tovala*): Is Mr. Matthew aware that, in the Nanjanad Vellala community, *makkathayam* property too is considered as *sub-tarwad* property unlike the *makkathayam* property of Nayars?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Yes, that seems to be so. Therefore, I am not able to realise why the members should now think that a big calamity would fall on the community if the present amendment is accepted. I do not quite understand why we must take into consideration so many questions that are not relevant to the enquiry. This is only a matter of particular individuals getting a itle more or a little less of *tarwad* property at the time of partition,

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[Mr. T. J. Matthew.]

Therefore, I think this House should be guided by the real compromise that has been arrived at by the representatives of the community

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Sir, to begin with, I beg to state that I represent a constituency where a large number of Nanjanad Vellalas live, *viz.*, the Mavelikara *cum* Kartikapalli constituency, and I have got something like a mandate from them after a public meeting held by them.

MR. M. SIVATANU PILLAI (*Tovala*): May I know the exact number of Nanjanad Vellalas in his constituency?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): I am not quite certain about it.

MR. M. SIVATANU PILLAI (*Tovala*): May I know the approximate number at least?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): I cannot say. I have to refer to the *Census Report*.

MR. M. SIVATANU PILLAI (*Tovala*): Does he not think that it will be certainly not more than one hundred?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): It is certainly more than one thousand. (*Laughter.*) The signatories themselves are more than 150 in number and each signatory represents a family. The question should be considered primarily in a dispassionate and scientific spirit so far as we, the members of this Council, are concerned. The majority of the members of this House are not concerned with the compromise or with the previous history of the question. As Mr. Kumara Pillai so ably pointed out, the question should be judged on its merits. My own view is that the so-called compromise is neither morally nor legally valid. It was admitted here on all hands that the compromise was agreed to, by the co-opted members, Messrs. M. Velu Pillai and S. Subrahmanya Pillai, for fear that the Bill might otherwise be wrecked or that Her Highness the Maha Rani Regent might withhold consent. Certainly, that is a contingency which we can never fear. This threat itself amounts to coercion. If this is not coercion, I do not see what else could be called coercion in these matters.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Who held out that threat?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): I found it in Mr. Velu Pillai's manifesto, and it was referred to by our Deputy President himself.

DEPUTY PRESIDENT: I do not think I referred to any such threat.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Apart from all that, I wish to deal with the question in a dispassionate spirit, that is, with a view to the greatest good to the greatest number of

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Nanjanad Vellalas. The members of both parties might, for various reasons, have had their judgments blinded. But most of us are not in that position. It is, therefore, *our* duty to point out to them a fair and just course. We are all agreed that justice is the most fundamental principle to be observed in securing the greatest good to the greatest number.

The second point that I should like to bring to the notice of this Council is that *makkathayam* and individual partition are wanted by the Nanjanad Vellala community. As was ably pointed out by Mr. Matthew, there is no difference of opinion on that point. Messrs. M. Subrahmanya Pillai and Sivatanu Pillai also want the same. But they desire that, in calculating the share of each individual for partition, the male members should be unduly benefited at the expense of the female members. So far as I can understand, that is the gist of what is required by the *per stirpes* principle. It is really fortunate, for my friends of the *per stirpes* persuasion, that a few ladies of their community have not been co-opted as members of this Council. (Mr. A. K. Pillai: *Hear, hear.*) If that had been done, I think they would have had good reason to thank their stars for their having been seated near the doorway. As it is, they are fairly secure. But, they need not be too confident of their safety, since a representative of the fair sex is here, *viz.*, our highly esteemed and accomplished member, Mrs. Lukose. I advise the *per stirpes* gentlemen to back out of their attempt to unjustly invade the vested rights of the ladies of the Nanjanad Vellala community, before Mrs. Lukose rises up to speak; because, the prospect is really uncomfortable. (*Laughter.*)

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether all this is meant to make fun or to be taken seriously?

DEPUTY PRESIDENT: Why should you consider that it is intended to make fun? It may be humour.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): The ladies of the Nanjanad Vellala community have been looking up to their *marumakkathayam tarwad* property for the prospective maintenance of themselves and their children. It is unjust and cruel to defeat them, of their legitimate expectations, at one stroke. Let us consider the question now. As it is, the children of a male member are entitled only to one-tenth of the share of their father in the *tarwad* property. The children of the women of the *tarwad* are entitled to nine-tenths of the property of the male members also. Now, by the new law, we are making the children of the males entitled to the whole of the share of their father. Of course, it may be said that the children of the female members may get property from their own father. But, that is not the point here. There will be particular instances in which it will be more advantageous to get property from the *tarwad*. There may also be cases in which it may be more advantageous to get from the father. So, that is not the question here. Vested rights are sacred and they should not be defeated at one stroke. By adopting the *per stirpes*

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[Mr. G. Raman Menon.]

calculation, the rights of the women and children will be reduced practically to the vanishing point as may be seen from the statement placed before us by some of our obliging friends.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): The statement deals only with the children and not with the women.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): That is by the way.

There is no question as regards the fact that the women and children will suffer a good deal if this compromise is accepted. That cannot be denied even by my friends Messrs. M. Subrahmanya Pillai and M. Sivatanu Pillai. What is the justification for our depriving the women and their children of their legitimate rights? The reason that is advanced is that the Nanjanad Vellalas form a *makkathayam* community really. I cannot now take it for granted; because, it is now too late in the day to say that Nanjanad Vellalas are *makkathayees*. The law in force for the last century and more has been otherwise. You cannot now say that the adoption, by the Nanjanad Vellala community, of *marumakkathayam* law, centuries ago, was a make-believe arrangement. Even the prior existence of *makkathayam* in the community is disputed by Mr. Subrahmanya Pillai of Vaikam. Even supposing that they *adopted marumakkathayam* law, they did not do it as a make-believe one. Mr. M. Subrahmanya Pillai and others of his persuasion are not right in saying so. Whatever these friends may say for the moment, I believe, on good historical authority, that the Nanjanad Vellala ladies and gentlemen, of the past, were quite serious and that they observed *marumakkathayam* law quite seriously. The Nanjanad Vellalas were all along well known for the sacredness of their plighted word.

Another thing that is depended upon in supporting the new innovation is the right of *Ukantudama*, *Nankudama*, and matters of that kind. I submit that these do not form any valid ground for saying that the Nanjanad Vellalas are *makkathayees*. Such rights, at best, extend only to one-tenth of the share of the deceased, for all the children and the widow put together. Even such property becomes *marumakkathayam sub-tarwad* property in the case of the widow and children. That has been the case hitherto. Even if the advocates of the *per stirpes* principle succeed in showing that a large portion of the partitions or even all the partitions have taken place in the community on that principle, that will be no argument to show that such a principle is just or even expedient. We all know the position of the *karanavan* and of the male members in a *marumakkathayam tarwad*. The weaker members are more or less coerced by the stronger position of the *karanavan*. But, in fact, there have been partitions on the *per capita* principle also, as is admitted. Under these circumstances, one such partition is morally and legally worth at least twenty partitions of the other kind. Taking into

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consideration the position of the parties concerned and the influential position of the *karanavan*, the other members can only take what he gives, because partition, as we know, was not allowed by law. The Select Committee, after a very careful consideration have come to the conclusion that no definite usage has been made out. That only strengthens our position, on general principles, that only the *per capita* system should be observed. The method of calculating the share embodied in the Select Committee's Bill, is the one settled upon by the Enquiry Committee also. It is not reasonable to disturb the conclusion arrived at by two such independent committees of weighty authority. The case would have been different if the present amendment had referred to a matter on which the two committees differed. It seems to me that the matter touches even the principle of the Bill and that it should not be disturbed at this stage. All these considerations based on general principles apply to the present circumstances and facts of the case, and we can only proceed upon that and not upon the mere assertions of either party. I have very good reason to believe that the majority of the members of the community have the good sense and chivalry to be just to their sisters and to be true to their mother's milk. I have received several representations supporting the Select Committee's provision on the subject of partition, and bestowing disagreeable names on the amendment based on the *per stirpes* principle. I shall confine myself to one such representation, of which, I think, I can speak with some authority.

DEPUTY PRESIDENT: You ought not to refer to the contents of the petitions unless you present them before the Council.

MR. G. RAMAN MENON (*Mavelikara* cum *Karthikapalli*): The representation is signed, and bears *bona-fide* signatures of people several of whom I know personally, and they have unreservedly supported the Select Committee's proposal. Another consideration that I have to urge upon the attention of the House is that the compromise amendment of Mr. Sivatanu Pillai is complex and gives very great room for interminable disputes about *thavazhis*, etc. Justice can be practically made available to common people only by a definite law. It should be easily intelligible and applicable. This should be ensured so far as it is practicable. As ably pointed out by Mr. Subba Aiyar, in matters of law, perfect logic may not be possible. But that is no reason why we should not have it where it is possible. *Per capita* principle has this advantage also, in addition to its intrinsic justice under the circumstances of the case. The Section, as it stands, will not encourage unnecessary litigation and the attempt to manufacture false evidence about *thavazhis*. But the amendment will encourage both. On all these grounds, I oppose the amendment.

In this connection, I should also like to point out that the functions of the legislature are widely different from those of a court of law. Whatever difficulties a court of law may have with reference to the existing usage or custom, they need not trouble this legislature. We should look to the greatest good of the greatest number. Justice should primarily protect vested rights and I therefore request this House to solidly vote for the Select Committee's proposal.

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MR. K. SIVARAMA PANIKKAR (*Shertallai*): In discussing the amendment before the House, I do not believe that it is absolutely necessary to go into the history of the Nanjanad Vellala community, that is to say, whether they were originally *makkathayees* or *marumakkathayees*. Still, I, at the same time, believe that it is to some extent necessary also to go into it at some length in order to arrive at a conclusion as to whether they are *makkathayees* or *marumakkathayees*. But if I am to follow the dictum which was stated by Mr. G Paramesvaran Pillai the other day, I believe I am to take things as they are, that is the existing conditions. If we examine the existing conditions of the Nanjanad Vellala community, we find that they are *marumakkathayees*. The other day when Mr. Subrahmanya Pillai was questioned by a certain member whether he could produce any documents in which the signatories were described as *makkathayees*, it seems he said he could not. On the other hand, when he was questioned whether there were any documents in which the signatories were described as *marumakkathayees*, he said there were a few. Of course there were documents also which described the signatories simply as Nanjanad Vellalas signifying neither the one nor the other. There are High Court judgments to show that they are *marumakkathayees*. There are again the Enquiry Committee's Report and the Report of the Select Committee to show that they are *marumakkathayees*. I hope there is enough proof to convince the Council that they are evidently *marumakkathayees*. As a member of the *marumakkathayam tarwad*, is he not entitled to a due share of the property? Here, in the amendment, there is an illustration given. There are twelve members and a sum of twenty four thousand rupees has to be divided among these people.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I just refer the member to paragraph 10 of the Enquiry Committee's Report which says they are *makkathayees*?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): May I also refer him to Chapter IV, paragraph 28, of the Enquiry Committee's Report which says,

> "According to the *marumakkathayam* system which is followed in the main by the community, the family property is indivisible"?

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): The system followed is *marumakkathayam* but they are *makkathayees*.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): If you make such nice distinctions between the systems and *thavazhis*, as you say, I have not much to say.

MR. M. SIVATANU PILLAI (*Tovala*): Can the member say whether there is any such system as *Ukantudama* in the pure *marumakkathayam* system?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): That is exactly what I say. Some of these Nanjanad Vellalas seem to say that they were originally *makkathayees*. That word *originally* itself shows that they have now changed.

MR. M. SIVATANU PILLAI (*Tovala*): May I know from the member whether he will be pleased to answer my question direct?

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MR. K. SIVARAMA PANIKKAR (*Shertallai*): If he will kindly wait and hear me patiently, I will answer the whole question. They were originally *Makkathayees*. It is against human nature to suppose that a community from *Makkathayam* goes back to *Marumakkathayam*. On the other hand, there are so many communities represented here in this Council. There are *Makkathayam* and *Marumakkathayam* communities. We have never seen a *Makkathayam* community asking for a legislation for *Marumakkathayam*. We have many *Marumakkathayam* communities asking for legislation by which they want to go to *Makkathayam*. History also, I believe, will tell us that a community which was originally *Marumakkathayam* will try to go to *Makkathayam*, not from *Makkathayam* to *Marumakkathayam*. It is crab-like progress and retrogression that is made by this community. Every community wants to progress; and progress, I believe, is the course of a community which goes from *Marumakkathayam* to *Makkathayam*.

MR. M. SIVATANU PILLAI (*Tovala*): Am I to understand from the member that he denies the fact that the Nanjanad Vellalas were originally *Makkathayees*?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): If I remind the member of my speech, I think I began with this sentence that it is not absolutely necessary to make a searching enquiry into the antiquarian history of this community. That is absolutely unnecessary.

MR. M. SIVATANU PILLAI (*Tovala*): Is he aware that they were originally *Makkathayees*?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): We will take things as they are. There is evidence to show that the existing Nanjanad Vellalas are *Marumakkathayees*. Do you grant it or not?

DEPUTY PRESIDENT: Please address the chair. Further Mr. Sivatanu Pillai cannot answer.

MR. M. SIVATANU PILLAI (*Tovala*): May I know for what purpose the member now indulges in the enquiry as to whether the Nanjanad Vellalas belong to *Makkathayam* or *Marumakkathayam* system?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): It was only in attempting to answer the question put to me by the member that I had to indulge in it. Else, I would have gone away from that point and would have been brief in my speech. I have not very many points to say. Evidently, when it is shown that it is a *Marumakkathayam tarwad*, the property ought to be divided *equally* among *all* its members. I took the illustration given in the amendment. There are twelve members and a sum of Rs. 24,000 is to be divided. H, L, M, N and P each gets Rs. 1,160 according to the amendment. They ought to have got their due share of Rs. 2,000. But they get only Rs. 1,160, and this is a fallacy, for out of this Rs. 1,160, they get only Rs. 1,000. Rs. 160 they can even get otherwise. Because it is their mother's share, and they ought to get it. They ought to get much more. What they actually get is only Rs. 1,000. This is just like a man—

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DEPUTY PRESIDENT: How is that a fallacy? When it is actually divided, Rs. 1,160 is not his mother's share.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Viewed from the *Marumakkathayam* point of view, he ought to get Rs. 2,000.

DEPUTY PRESIDENT: Yes.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Rs. 160 is from his mother's share. So he does not get Rs. 1,160 as his share.

DEPUTY PRESIDENT: He gets Rs. 1,160 at the time of the partition. There you are wrong.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Therefore what I want to impress upon the members of this House is that, in a *Marumakkathayam tarwad*, each member is entitled to get a due share. Here, it is only shown that the L, M, N, and P., each, get Rs. 1,160. This is just like a man suing another man for Rs. 1,000 which he does not actually owe. Therefore, for arriving at a reconciliation, the man may say, "Well you just pay me something" and the other man may say "I will pay you Rs. 500." But then it is no relief to the giver; it may be relief to the man who accepts because he has nothing to claim. This is exactly the *via media* here adopted. In *via media*, I cannot understand wherein lies the justice. We are here assembled to discuss and arrive at a definite truth and justice. We should have recourse to a *via media* system when it is not possible for the House to arrive at the truth. We are here to arrive at the truth. Where is the practical impossibility? It is our business to try to solve that impossibility and arrive at the truth. It is sure that *via media* is not truth. It is far away from the truth, somewhere midway between truth and untruth. Truth lies at the one extreme or the other. If *per stirpes* sort of partition is the truth, that ought to be given. That is my view. On the other hand, if individual partition is the truth, then that ought to be given. Why should we arrive at a *via media* course? We know fully well that some people are left aggrieved. We are here to redress the grievances of the community. I do not believe in the statement of Mr. G. Paramesvaran Pillai that we have no right to interfere when three-fourths of the elected members representing the community have a common voice.

MR. M. SIVATANU PILLAI (*Tovala*): Will the member be pleased to refresh his memory and see that, in the Enquiry Committee's Report or the Select Committee's Report, there is a definite statement to the effect that there are partitions based upon *per stirpes* and there are partitions based upon *per capita* method.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I do not deny that there are two methods of partition. But they have arrived at a definite conclusion that *per capita* partition ought to be the method to be adopted. When they have said that, why should we deviate from it? The Committee have taken evidence, and, unfortunately, the Select Committee have not arrived at a consensus of opinion. But, that is no reason why we should deviate from it. Two members disagreed,

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but the majority of the members agreed to *per capita* division. They say they have discussed the question, considered the whole thing and arrived at the conclusion that *per capita* division is just. Why not we accept that? Then again, in the Enquiry Committee's Report, it is stated that;

"the committee have no hesitation in recommending that partition should be *per capita* among all the members, male and female, and *per capita* only"

I may also, if I am permitted, just refer to the speech made by one of the members of the Nanjanad Vellala community in this Council, who said that this community is a poor and dumb community, and, if that is granted, we are here to safeguard the interests of the poorest and most dumb among the community, I mean the women and children of that community. We are here to safeguard the interests of all the people, much more the interest of these people, because they cannot come here and they have no voice in the Council to express their grievances. A member of the *Marumakkathayam tarwad*, be he a baby six months old or a man on the wrong side of ninety, has got equal claim on the *tarwad* property, and why should he forego one-half of his or her share? That is a thing which I cannot understand. Why should we seek a *via media* course between the two methods of partition knowing thereby that we are not at all arriving at the truth?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether the Vellala *tarwad* is purely a *marumakkathayam tarwad*?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): No. I can understand society grafting things from surrounding circumstances. Similarly in this way the community might have engrafted certain *Makkathayam* incidents from the surrounding communities.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): There are observable certain *makkathayam* incidents. Is it not advisable to make some provision for that also in the case of partition?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): The whole thing is being turned into *Makkathayam* system altogether. From *marumakkathayam* they go to *makkathayam*.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): As regards partition itself, is it not advisable to make some provision for the existing *makkathayam* incidents which are seen in the family system as regards partition?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): They are only incidents you say. Mainly they are *marumakkathayees*. *Ukantudama* is a system which is not prevalent among the Vellalas of North Travancore. That itself shows that it has been a development of later growth.

MR. A. K. PILLAI (*Karunagapalli*): Does the member know that according to the present law the whole goes to the sons?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Exactly so.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Is it not necessary that a provision should be made?

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MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Each member is entitled to get his due share.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : That is only if the family is purely a *marumakkathayam* one. But in this case we have a *marumakkathayam* family with certain incidents of *makkathayam*. In such a case, is it not necessary that some provision should be made ?

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : They are making the whole provision for *makkathayam* and I do not see the necessity of making *some* provision for *makkathayam*. Again I have not understood this *ukantudama* as being a *makkathayam* right. I do not believe that a son who is not able to perform the father's obsequies is entitled to get a share of *ukantudama*. *Ukantudama* also goes by *sub-tarwad* system. Again, if the last member of the Vellala family happens to die, the property, even if the son is living, is escheated to Government. All these show that it is purely a *marumakkathayam tarwad* which has engrafted within its fold some of the incidents of *makkathayam*. There is no such thing as *ukantudama* among the Vellalas in North Travancore. This shows that it is only a development of a later growth and an adaptation of the customs of the surrounding communities.

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*) : In the case of *ukantudama*, may I know from the member whether the courts—

DEPUTY PRESIDENT : I do not hear you at all, Mr. Subrahmanya Pillai.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : I believe—

DEPUTY PRESIDENT : Let him finish his question before you answer him.

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*) : Is the member aware that, in the case of *ukantudama*, the courts do not go into the question whether the children have performed the obsequies of their father ?

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : I belive they go into that question.

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*) : For the information of the member, may I say that the courts never go into that question ?

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Perhaps they have got other evidence.

MR. A. K. PILLAI (*Karunagapalli*) : Does the member know that the sons cannot claim any *ukantudama* if the father died in England and not in India ?

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : That is exactly what I say.

MR. M. SIVATANU PILLAI (*Tovala*) : Does the member know that *kantudama* is a charge on the *tarwad* property and not on the corporeal body of the father whether he dies in England or—

DEPUTY PRESIDENT : When Mr. Sivatanu Pillai continues his question, you cannot interrupt him. He is putting a question and let him finish it.

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MR. M. SIVATANU PILLAI (*Tovala*): Does the member know that *ukantudama* is a charge on the *tarwad* property of the deceased father and not any charge on the corporeal body of the deceased father?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I know that. Every man of sense can understand that.

At the same time I may also remind the House that only after the death of the father the son has a claim on the property.

MR. A. K. PILLAI (*Karunagapalli*): Does the member know that *ukantudama* is given not as part of the property but only in the shape of money?

MR. K. SIVARAMA PANIKKAR (*Shertallai*): It is exactly so. It is only given in the shape of money. If the nephew performs the obsequies—

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Is it not a charge upon the immovable property itself?

DEPUTY PRESIDENT: Mr. Sivatanu Pillai has already asked that question.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I also wish to point out that, if the nephew happens to perform the obsequies of the father he is not given *ukantudama*. What does it show? It shows that he is legally entitled to all the property and hence need not be given anything specially for that. On the other hand, the son is not entitled to anything. Therefore it is given as a compensation. All these things will go to prove that the Nanjanad Vellalas, whatever they may have been originally, are at present *marumakkathayees*. Looking from the point of view of the *marumakkatkayam tarwad*, we ought to see in fairness and justice that all children, including male and female without any difference of grade, should have an equal right over the the *tarwad* property. Therefore, I appeal to the sense of justice and equity of the members of this House to see that the helpless children, widows and mothers are not allowed to go without their due share.

MR. C. P. TARAKAN (*Kunnatnad*): നാഞ്ചിനാട്ടുവെള്ളാള സമുദായത്തെ സംബന്ധിച്ചു ഒരവകാശക്രമമ്പിൽ ഉണ്ടാക്കാൻ ഉള്ള പ്രാരംഭനോപക്ഷണ ഘട്ടംമുതൽ ആ സമുദായത്തിൽപ്പെട്ട പ്രധാന മാന്യന്മാരിൽ പലരും പലവിധത്തിലുള്ള തകടം മറിച്ചിലുകാം സഹിച്ചു എന്നുള്ള മുഖവുരയോടുകൂടി ആരംഭിച്ചു ചില മുത്തച്ചികഥകളും പള്ളിക്കൂടപിള്ളരുടെ അഭിപ്രായങ്ങളെയും ബഹുമാനിച്ചു അദ്ദേഹം ഈ സഭയോട്ടെയ്ത വാശത്തിൽനിന്നും പിൻവലിഞ്ഞ മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളയോടൊപ്പം ഈ സഭ ഒന്നു തകടംമറിയണമെന്നുള്ള അദ്ദേഹത്തിന്റെ അപേക്ഷയെ സഹിക്കുവാൻ എനിക്കു വളരെ പ്രയാസമുണ്ട്. ഈ ബിൽ മറെറാരു സിലക്ട് കമ്മറിയെ ഏൽപ്പിക്കണമെന്നും ആ സമയംകൊണ്ടു നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തിന്റെ സ്ഥിതിയെന്താണെന്നു പ്ര

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തൃക്ഷമായി തെളിയിക്കാൻ താൻ തയാറാണെന്നും മിസ്റ്റർ ശിവരാമപിള്ള എത്രയും ശക്തിയായി ഇവിടെ പറയുകയുണ്ടായി.

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): അതിനു മറുപടി സെലക്ട് കമ്മറ്റി പ്രസിഡൻറ് അവർകൾ അന്നതന്നെ പറഞ്ഞു എന്നറിയാമോ?

MR. C. P. TARAKAN (*Kunnatnad*): സിലക്ട് കമ്മറ്റി പ്രസിഡൻറ് എന്തെങ്കിലും പറഞ്ഞെങ്കിൽതന്നെ അതിനെ ഈ സഭ അംഗീകരിച്ചതായി ഒരു വിധത്തിലും പ്രത്യക്ഷപ്പെടുത്തിയിട്ടില്ല. തറവാട്ടു സ്വത്തിൽ പകുതി per stirpes ആയിട്ടും പകുതി per capita ആയിട്ടും ഭാഗിക്കുന്നതുസംബന്ധിച്ചു ഒരു ഭേദഗതി മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള ഹാജരാക്കുന്നപക്ഷം അതിനെ സ്വീകരിച്ചുകൊള്ളാമെന്നു മിസ്റ്റർ എസ്. സുബ്രഹ്മണ്യപിള്ളയും മിസ്റ്റർ വേലുപ്പിള്ളയും സമ്മതിച്ചതനുസരിച്ചു ആ വ്യവസ്ഥയിന്മേലാണ് മിസ്റ്റർ എം. സുബ്രഹ്മണ്യപിള്ളയുടെ പ്രമേയം പിൻവലിക്കുവാൻ ഈ സഭ അനുവാദം നൽകിയത്.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): മക്കവഴിയും മരുമക്കവഴിയും എന്ന വ്യത്യാസം കൂടാതെ —

MR. C. P. TARAKAN (*Kunnatnad*): I am not going to answer the question.

DEPUTY PRESIDENT: Let him put the question. It is open to you to answer it or not.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*): എല്ലാംകൂടി ചേർത്തു ഒരു കണ്ടിഷൻ മേൽ പെർക്യാപ്പിറ്റായും പെർസ്റ്റിർപ്പിസും കൂട്ടിച്ചേർത്തു ഒരമെൻറുമെൻറു കൊണ്ടുവരികയെന്നുള്ള അഭിപ്രായം മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള പ്രസ്താവിച്ചതായി മെമ്പർ ഓർക്കുന്നുണ്ടോ?

DEPUTY PRESIDENT: That question is not relevant as it does not refer to the amendment before the House. The Clause now before the House is 31.

MR. A. K. PILLAI (*Karunagapalli*): മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ളയുടെ അമെൻറുമെൻറു സെലക്ട് കമ്മറ്റി രണ്ടാമതു നിശ്ചയിച്ചതു ഈ സംഗതി തീരുമാനിക്കണമെന്നായിരുന്നോ?

MR. C. P. TARAKAN (*Kunnatnad*): ആയിരുന്നു.

MR. A. K. PILLAI (*Karunagapalli*): അതിൽ ന്യായമായ കാരണം ഉണ്ടെന്നു പറഞ്ഞിരുന്നോ?

MR. C. P. TARAKAN (*Kunnatnad*): പറഞ്ഞിരുന്നു.

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MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, I rise to a point of order whether members can address each other.

DEPUTY PRESIDENT: No. The question must be addressed to the Chair, Mr. A. K. Pillai.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള മുതലായവർ കൊണ്ടുവരുന്ന രാജിയെ അതേ രീതിയിൽ സ്വീകരിക്കാമെന്നാണോ അന്നു സമ്മതിച്ചിരുന്നത്?

MR. C. P. TARAKAN (*Kunnatnad*): I do not catch him.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള മുതൽപേർ കൊണ്ടുവരുന്ന രാജിയെ അതേനിലയിൽ സ്വീകരിക്കണമെന്നാണോ അന്നു സമ്മതിച്ചിരുന്നത്?

MR. C. P. TARAKAN (*Kunnatnad*): അല്ല, അതേ രീതിയിൽ സ്വീകരിക്കണമെന്നു പറഞ്ഞില്ല. ഇപ്പോൾ ഇവിടെയിരിക്കുന്ന രാജിതന്നെ സ്വീകരിക്കണമോ അതോ വേറെ രാജി സ്വീകരിക്കണമോ എന്നുള്ള വിഷയമല്ല നമ്മുടെ ആലോചനയിൽ ഇരിക്കുന്നത്. മിസ്റ്റർ എസ്. സുബ്രഹ്മണ്യപിള്ള ഇപ്പോൾ പാടെ നിഷേധിക്കുകയാണ്. അതുകൊണ്ടു മിസ്റ്റർ ജോസഫിന്റെ ചോദ്യത്തിനു ഉത്തരം പറയേണ്ട ആവശ്യമില്ല.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): അവർ കൊണ്ടുവരുന്ന രാജിതന്നെ സ്വീകരിക്കണമെന്നുണ്ടോ?

MR. C. P. TARAKAN (*Kunnatnad*): എന്നു ഞാൻ പറഞ്ഞില്ല. രാജിയുടെ സാമാന്യവ്യവസ്ഥകളെ ഈ സഭ സ്വീകരിച്ചു അതിന്റെ ഡീറെയിൽസിനെ സംബന്ധിച്ചു വല്ല അഭിപ്രായവ്യത്യാസവും മിസ്റ്റർ എസ്. സുബ്രഹ്മണ്യപിള്ള പറഞ്ഞിരുന്നു എങ്കിൽ അതെപ്പറ്റി നമുക്കു ആലോചിക്കാമായിരുന്നു.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): I rise to a point of order whether this Council is bound by any compromise which took place outside the House.

DEPUTY PRESIDENT: Even when the motion for withdrawal was brought, I stated in answer to Mr. A. K. Pillai's question that the Council is not bound by any compromise between the parties. But that is quite a different matter.

MR. C. P. TARAKAN (*Kunnatnad*): I think that question does not arise at all.

DEPUTY PRESIDENT: No, that question does not arise.

MR. C. P. TARAKAN (*Kunnatnad*): ഈ രാജിയെ ഈ സഭ ഒരു പിള്ളകളിയായി സ്വീകരിച്ചു എന്നു എനിക്കു വിശ്വസിക്കുവാൻ പ്രയാസമുണ്ട്. ഇങ്ങനെ ഒരു രാജി ഈ സഭ ഗൗരവത്തോടും ചിന്തലബോധ

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ത്തോടുംകൂടി സ്വീകരിച്ചശേഷം ഇപ്പോഴും അതിൽനിന്നും നാം വ്യതിചലിക്കണമെങ്കിൽ വെള്ളാളസമുദായം നരകത്തിൽ പോകാൻപോകുന്നുവെന്നോ വെള്ളാളസമുദായത്തിനു വലിയ അപകടംഭവിക്കാൻ പോകുന്നുവെന്നോ പ്രത്യക്ഷപ്പെടുത്തേണ്ട ആവശ്യം ഉണ്ട്. അങ്ങനെ ആരും വാദിച്ചിട്ടില്ല. നാം ഇപ്പോഴത്തെ രാജിയിൽനിന്നും പിൻവലിയുന്നതു ഈ സഭയുടെ ഘനത്തിനും ബുദ്ധിശക്തിയെപറ്റിയുള്ള ധാരണജനാഭിപ്രായത്തിനും ഹാനികരമായിരിക്കും.

MR. A. K. PILLAI (*Karunagapalli*): രാജിയിൽനിന്നും 'നാം' എന്നു പറയുന്നതു ആരെയെല്ലാം ഉദ്ദേശിച്ചാണു്?

MR. C. P. TARAKAN (*Kunnatnad*): സഭയെ ഉദ്ദേശിച്ചാണ്.

MR. A. K. PILLAI (*Karunagapalli*): സഭ രാജിയെപ്പറ്റി ഒന്നും പറഞ്ഞിട്ടില്ല.

MR. C. P. TARAKAN (*Kunnatnad*): രാജിയെസംബന്ധിച്ചു പൊതുവെ അഭിപ്രായം പറഞ്ഞിട്ടുണ്ടു്.

ഇനി ആലോചിക്കാനുള്ളതു ഈ അമൻറുമെൻറുപ്രകാരം വെള്ളാളസമുദായം സ്ഥിരമായി സ്വീകരിച്ചുവന്നിട്ടുള്ള ഒരു ദായക്രമത്തെയൊ വിഭാഗരീതിയേയൊ നാം പാടെ ഭേദപ്പെടുത്തുന്നുണ്ടൊ എന്നാണു്. മിസ്റ്റർ ശിവതാണുപിള്ളയുടെ അമൻറുമെൻറു ആ രീതിയിലുള്ള ഒന്നല്ല എന്നാണു എൻറെ അഭിപ്രായം. വെള്ളാളസമുദായത്തിൻറെ ആചാരരീതിയെ പറ്റി പലരും അന്വേഷണം നടത്തിയിട്ടുണ്ടു് എങ്കിലും ആ സമുദായം പരിപൂർണ്ണമായ മരുമക്കത്തായ ദായക്രമം സ്വീകരിച്ചിട്ടുള്ള ഒരു സമുദായമാണെന്നു തെളിയിക്കുവാൻ ഇതേവരെ ഒരുത്തക്കും സാധിച്ചിട്ടില്ല. ആദ്യത്തെ എൻകയറികമ്മറിയുടേയും രണ്ടാമത്തെ എൻകയറികമ്മറിയുടേയും സിലക്ട്കമ്മറിയുടേയും റിപ്പോർട്ടുകൾ സൂക്ഷ്മമായി പരിശോധിക്കുന്നപക്ഷം വെള്ളാളസമുദായം മക്കത്തായ ആദർശങ്ങളും ധാരാളമുള്ള ഒരു സമുദായമാണെന്നു എതുയും പ്രത്യക്ഷമായി കാണാവുന്നതാണ്. അതിനുംപുറമെ വെള്ളാളസമുദായത്തിൽ ഇതുവരെസ്വീകരിച്ചിട്ടുള്ള ദായക്രമത്തിൻറെ അടയാളമായിട്ടും ഈ സഭയ്ക്കു ഒരിക്കലും അവിശ്വസിക്കാൻ നിവൃത്തിയില്ലാത്തവിധത്തിലും ഉള്ള വെളിവുകൾ കഴിഞ്ഞ പത്തുകൊല്ലത്തിനിടയ്ക്കു നടന്നിട്ടുള്ള ഭാഗാധാരങ്ങളാണു്. എൻകയറി കമ്മറിറിപ്പോർട്ടിൽ തായ്വഴിഭാഗത്തിനു ർന്നെ–ം ആം വീതംഭാഗത്തിനു ഫന്നർ–ം ഭാഗാധാരങ്ങളും വെള്ളാളസമുദായാംഗങ്ങളും രജിസ്റ്റർചെയ്തിട്ടുള്ളതായി [illegible]

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MR. K.SIVARAMA PANIKKAR (*Shertallai*): തായ്വഴിഭാഗത്തിനും പെർസ്റ്റർപ്പീസിനും തമ്മിൽ വ്യത്യാസമുണ്ടെന്നുമെമ്പർ അറിഞ്ഞിട്ടുണ്ടോ?

MR. C. P. TARAKAN (*Kunnatnad*): തായ്വഴിഭാഗവും *per stirpes*—ഒന്നല്ല എന്നു ഞാൻസമ്മതിക്കുന്നു. അതു പെർസ്റ്റർപ്പീസുമല്ല പെർകാപ്പിറായുമല്ല. ഇപ്പോഴത്തെ അമെൻറുമെൻറും പെർസ്റ്റർപ്പീസുമല്ല. പെർകാപ്പിറായുമല്ല. അതിനാൽ ഈഅമൻറുമെൻറു നാം സ്വീകരിക്കുന്നപക്ഷം വെള്ളാളസമുദായത്തിലേക്കു ഈ സഭ ദോഷംചെയ്യും എന്നു അഭിപ്രായപ്പെടാൻ ഒരുവിധത്തിലും മാർഗ്ഗമില്ല. ഈ അമെൻറുമെൻറു വെള്ളാളസമുദായത്തിലെ സ്ത്രീകൾക്കും കുഞ്ഞുങ്ങൾക്കും ഉപദ്രവം ഉണ്ടാകുന്നു എന്നു മിസ്റ്റർ ജി. രാമൻമേനവൻ പറഞ്ഞതു കേവലം അത്മമില്ലാത്തതാണു്. ഈ സഭയിലെ ഏകസ്ത്രീ സാമാജികയായ മിസ്സസ് ലൂക്കോസ് ഇതുകേട്ടു ഈ അഭിപ്രായത്തിനു വോട്ടുചെയ്കയില്ല എന്നും ഞാൻ പൂർണ്ണമായി വിശ്വസിക്കുന്നു. ഇതിൽ കൂടുതലായിട്ടു ഇതിനെ സംബന്ധിച്ചു ഒന്നും പറയണമെന്നു വിചാരിക്കുന്നില്ല.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, the question has been raised whether the members of the Vellala community who are also members of this House have the right to claim that they represent the views of that community. It has been a moot question whether the best way of knowing the feelings of a community is by the system of representation as we find in India, in England and other places. But it is admitted that no better method of getting at the opinions of a community or a nation has been evolved in the history of mankind. It may not be an ideally perfect institution, but no better system has been evolved. That being the case, it is certainly uncharitable to question the representative character of the members of the Vellala community.

Again some members are co-opted members and it has been questioned whether they are in a position to speak for that community. But at least it shows that Government, trying to understand the feelings or the desires of the community, have nominated them and there has been no protest against their being co-opted as members. Such being the case, it may be conceded that, in matters affecting the interests of the particular community, the views of the members of that community must be taken as a very safe guide by this House. People talk of justice and fairplay and all that sort of thing.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Why was not the same principle observed in the case of monogamy?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): It is admitted that there is no definite standard of justice. They are all relative terms. Parliaments or Legislative Assemblies pass a measure, and we have to take it as acceptable at that time. It often

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happens that the decision once arrived at is thereafter proved to be wrong. But for all practical purposes we are to take it as the standard of justice for the time being.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): If the representatives of a community change their views every day, are we to understand thereby that the community also changes its views?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): That is a hypothetical question which I am not prepared to answer.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I shall explain myself. A few days ago Mr. Subrahmanya Pillai and Mr. Sivatanu Pillai were advocating the cause of *per stirpes* partition. Now they have consented to a *via media* policy. I want to know whether in this few days' time these people who wanted *per stirpes* partition have changed their views and have come to the conclusion that a *via media* is to be followed?

DEPUTY PRESIDENT: That question itself is not relevant. Because once the parties are at issue and when they make up the matter any way, that does not follow that one party has come to share the view of the other or that they are satisfied with the *via media*. But in order that there may be a safe passage of the Bill, one party may have to agree to some proposals of the other and the other party may agree to accept a portion of the former's contention:

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The relevancy consists only in this that the members give the representative opinion.

DEPUTY PRESIDENT: That does not necessarily follow.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): As a result of discussions, members are often impelled to alter their opinion. That is not done after making themselves sure that there is a corresponding change in the view-point of the constituency which they represent. I think that is an every-day occurrence, and any way as the Deputy President said, it does not arise in this connection.

In a tentative measure for the future Government of India, it has been maintained that, in matters affecting the social or religious interests of a community, nearly 75 per cent. of the community ought to decide whether the particular measure should be enacted or not. The members of other communities should not interfere with the opinion expressed by the dominating majority of the members of that community. Similarly we, who are members of other communities, should be very scrupulous in seeing that we do not unwittingly offend the religious or social instincts of communities other than our own. The question now at hand has very deeply divided and very greatly agitated the Vellala community in regard to certain points. Under these circumstances, I came here with the view that I should be guided by the feelings and sentiments of the members of that community. I think we cannot be blamed if, in the confusion produced by the differences o opinion asserted with equal authority and equal knowledge by both side

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to the question, we leave the matter to the decision of the community. In this House a compromise was effected. It is undoubtedly true that this House is not bound to act according to the compromise. I gave my vote in favour of the amendment under the belief that I should disregard my individual opinion in this matter and act according to the compromise arrived at between the two sections of the community. I was really surprised and very much vexed to see that an attempt was made by Mr. S. Subrahmanya Pillai to depart from that compromise. Whatever the merits of a compromise may be, once a compromise is arrived at, it is the duty of the parties to act up to it unless there are imperative considerations or matters of life and death. I do not think any circumstance has arisen in the course of this discussion which should justify the departure made by one of the members of the community in regard to this Bill. I was able to gather one or two points from the discussion in this Council as also from conversations outside.

One point is quite clear ; I think both the contending parties desire that a Bill should be passed at once whether the point at issue is decided in the way each party desires or not. Some such feeling was prevalent when the Christian Bill was being discussed. No doubt, there were one or two points that were the cause of much contention, namely, the rights of widows and daughters. The parties exaggerated the importance of these points to such an extent that they said that, if these points were not decided as they opined the whole world would come to an end. Yet a compromise was arrived at. Ever since, there has been great satisfaction and contentment in the community. Similarly with regard to the Nayar Regulation, there were a few contentious points to be decided. Leaving them apart, the community was anxious that the Bill should be enacted at once since the Bill had a number of good points approved by all parties. I think that a similar result will follow from the immediate enactment of this Bill. Mr. Velu Pillai and another prominent member of the community told me that, leaving these contentious points apart, it is absolutely necessary that the Bill should not be recommitted to a fresh Select Committee and that there should not be any delay in enacting this measure.

Secondly, it is also clear, after the very cogent and convincing explanations offered by the Deputy President, that this compromise does not involve any principle newly sprung upon this House. Even in the Select Committee, the possibility of such a compromise was discussed. I think, after all that has happened, it is a perfectly reasonable solution that this compromise provides.

Another point that I wish to emphasise is that this mingling of *per stirpes* and *per capita* partition will exist only during the transition stage. Once the *tarwad* property is divided, according to the present Bill, the next generation will be able to follow the *per capita* system exclusively. I do not think there will be any confusion. It may, moreover, be said that, when a social legislation is passed, some kind of heart-burning is bound to result. Because there is something

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wanting from the standpoint of Mr. M. Velu Pillai and Mr. S. Subrahmanya Pillai. It is no reason why the beneficial provision given in response to their wishes should be thrown overboard.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I ask the member whether he knows that, out of the 318 witnesses examined, only 69 per cent. of the people are for individual partition?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): That has already been discussed. I have given my arguments; Mr. Peraviperumal Pillai has given his arguments; and the Deputy President has given his arguments.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I know from the member whether the consent of 69 per cent. of the population is enough in a matter of social legislation?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): That is what I said at the very beginning. Each member is at liberty to vote according to his own conscience. But, as I said at first, it is generally safe for the House in matters like this to be guided by the dominating view of the particular community with which we are concerned. To traverse outside this House and hear arguments and take evidence will be difficult. In view of the circumstances under which the compromise was effected and especially in view of the very convincing statements made by the Deputy President and the uniform desire of all the parties to the controversy that some measure should be passed without delay, I think we should take no steps to prevent the passing of this measure. I have come to the deliberate conclusion that, by adopting the compromise arrived at, there will not be any serious disaster falling upon the community. That being the case, I think we are in honour bound to respect the compromise. Therefore I support the motion.

DEPUTY PRESIDENT: May I know whether there are other members to speak?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): There are others to speak.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara cum Kunnattur*): May I know the time, Sir?

DEPUTY PRESIDENT: You have got 20 minutes more.

MR. N. V. JOSEPH (*Parur*): Allow me three minutes, Sir.

I beg to support the amendment.

There is much that can be said on both sides. After having heard the speeches of most of the members, my conclusion is that even in the Legislative Council the members are changing sides; that is, those who advocated the *per capita* division before now press for the *per stirpes* division.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the member has come to know of this only just now?

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MR. N. V. JOSEPH (*Parur*) : The first time in my life. What does this show? We have seen that witnesses when examined by the Enquiry Committee give one opinion while at other times they give quite the contrary opinion. In this Council also, one member holds one view yesterday and another to-day. What is the inference that is to be drawn from this? I can only say that the ground on which they stand is not steady. We cannot say that all are mad men or fools. The ground on which they stood was slippery because there is much to be said on both sides. [Mr. K. C. Mammen Mappillai : *Hear, hear.*] We find a great majority of documents for *per stirpes* division. The Legislative Council is imposing a system upon the people upon the evidence collected. What is codification? If the law is uniform, so far as every individual is concerned, where is the necessity for codification? That itself shows there are minorities who follow a different sort of partition. Suppose we follow one system, for example the *per capita* system of partition. Are we not imposing a definite system upon the people who are following the *per stirpes* system and are we not bargaining our birthrights? Are we not compromising their rights? My friends have touched upon this question. Truth in legislation, truth in codification, truth in partition—I do not really understand what it all means. It is a method of dividing family wealth. What is truth? I cannot understand. What was the custom or usage prevalent among the Vellalas in the matter of partition? We cannot arrive at the truth. Even if we arrive at the truth, it will be fruitless because we can never reach at one single specific custom. When we came here, many of the members who did not belong to the Vellala community were really in a fix. We found them fighting against each other and I may be pardoned if I say that some of them would have come to blows. It was a happy moment when they wanted to effect a compromise. We were saved a lot of trouble and we went away with the impression that they had returned with a compromise scheme. I even heard that these Vellalas entrusted the business of drafting the rules to an honorable member of this Council.

Mr. Subrahmanya Pillai brought forward a proposal in which he stated that a fresh Select Committee should be appointed on the ground that the old Select Committee had not done its duty properly. What was the pronouncement of this House upon that proposition? He was asked to withdraw. If this proposition had not been withdrawn, we would have had a chance of knowing the opinion of the House on the point. We all expected to go away from here at about eleven o'clock. We never expected that we would be here till five. Everything was upset. When the question was taken up yesterday—

MR. A. K. PILLAI (*Karunagapalli*) : Does the member know that the question was *not* taken up yesterday.

MR. N. V. JOSEPH (*Parur*) : Under correction, I say that the discussion took place day before yesterday. Anyhow, I am of opinion that we should not be playing in this manner with such an august assembly as this Legislative Council where men should stand upon their word of honour. We should therefore force the parties to agree to our decisions; otherwise we must compel them.

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MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Has any member of this House given his word of honour in favour of either *per capita* or *per stirpes* ?

MR. N. V. JOSEPH (*Parur*) : There may be consent by means of expression. There may be consent by writing and there may be consent by conduct. (*Laughter*). There may be consent by tacit acceptance.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : May I know what they accepted ?

MR. N. V. JOSEPH (*Parur*) : The motion.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : May I remind the member of what the President stated some time ago when Mr. A. K. Pillai said that they were bound by their opinion and accordingly we are all bound by our own opinion ?

MR. M. SIVATANU PILLAI (*Tovala*) : May I know whether the President will be pleased to extend the time ?

DEPUTY PRESIDENT : We may continue till 5-30.

MR. N. V. JOSEPH (*Parur*) : All that I say is that we are legally and constitutionally bound by that decision of the President.

I have great pleasure in supporting the amendment.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*) : Sir, I shall not keep the House long. My first idea was to hold my tongue. But when a problem of far-reaching importance, affecting the well-being of an important community, though not numerically strong, has come up for the consideration of the House, I thought that I would be failing in my duty if I did not contribute my mite towards its solution. From the time the last Council began to think of and have anything to do with this Bill, we knew that there were two parties representing two different and diverse opinions. It is the experience of every member, I think, that he was interviewed by representatives of both parties. Members of other communities felt it very difficult to decide the question because they were not directly concerned with it and the matter becomes all the more delicate when we consider that the representatives of the community are in a minority in this Council. When I heard therefore that the Vellala members of this Council had arrived at a reasonable compromise, I felt very happy and thought that after all, the community might live in peace hereafter. But I was disillusioned the next morning when the representatives of one of the parties came saying that they were not in favour of the compromise and that, while one party was very anxious to stick to the compromise, the other party was unwilling to accept it but wanted the matter to be re-opened and discussed in this Council. The question therefore again assumed its original difficulty and I believe that every member of this Council must have felt the same difficulty as I felt in regard to the solution of this intricate question. Now, Sir, from what I heard from the co-opted members themselves, and from what I have been told elsewhere, I think that they did not consult the members of the community before they consented to the compromise proposed by my friends

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Messrs. M. Sivatanu Pillai and M. Subrahmanya Pillai. Not only have I been informed by representatives of the *per capita* division that they were not consulted but I also heard it from Mr. Subrahmanya Pillai (Vaikam) himself, that on further consideration, he felt he could not accept the compromise. Mr. Velu Pillai has also told me that he accepted the compromise in his individual capacity and not as representing the party who stood for *per capita* division. If that is so, it appears to me that the position has become very difficult. On the one hand, we have, if we go back on the compromise, Mr. M. Subrahmanya Pillai who has every reason to feel injured inasmuch as, whatever may have been the fate of his motion to recommit the Bill to a Select Committee, he withdrew the motion on the understanding that the compromise would be accepted by this House. On the other hand, we have got our young friends, the die-hards, who say that their cause has been given up by representatives over whom they had absolutely no control. Messrs. S. Subrahmanya Pillai and Velu Pillai have stated in clear terms that they are in favour of *per capita* division. They are co-opted members and according to the rules they do not represent any party or community. I am even doubtful whether, according to the rules, it was regular to have co-opted these members as representing the Vellala community.

DEPUTY PRESIDENT: The question whether they were properly co-opted or not does not arise now. Is it not too late to examine that?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I am not speaking of that. The second proviso to the Legislative Council Regulation, II of 1097, says:—

> "Provided also that Our Government may, for the purposes of any Bill introduced or proposed to be introduced in the Council, nominate not more than two members having special knowledge or experience of the subject matter of the Bill, and those persons shall, in relation to the Bill, have, for the period for which they are nominated, all the rights of members of the Council and shall be in addition to the members above referred to."

So I take it that these members were co-opted not because they were members of the community or they represented particular opinions or parties but because they have special knowledge of the subject. If that is so, in no sense of the word can it be said that they represented any party or community in this Council. Consequently their agreeing to a compromise does not at all mean that we should go by their opinion. All that we can say is that Messrs. S. Subrahmanya Pillai and M. Velu Pillai have special knowledge of the matter.

DEPUTY PRESIDENT: This aspect of the question was not placed before the House when the motion was moved.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I do not know that, because I was not here then. There is equal justice on the de of the party who represents the *per capita* system to say that they were not parties to the compromise and that they ought not to be held bound by the decision of the members of the Council over whom they

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have absolutely no control and who, as a matter of fact, do not even hold a definite or clear view in regard to the subject-matter of the controversy. I would, therefore, request this Council, in justice to that party which is not represented in this Council, to divorce their minds of the idea that any compromise was proposed or considered in this Council. We must consider the question purely on its merits and should not be prejudiced one way or the other by the fact that a compromise was attempted which to some extent has prejudiced the one party or the other. That is not the fault of the Council. Nor is it the fault of the party which is not represented in the Council; but it is the fault of the members who are co-opted by the Government. Under these circumstances, what I would request the members is to consider the question on its merits and to ignore all considerations.

DEPUTY PRESIDENT: Is it possible to put the parties to the motion in *status quo ante*?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I think Messrs. Subrahmanya Pillai and Sivatanu Pillai can be put in *status quo ante*. The Council did not place them in any serious situation at all. It was their own choice.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): May I know from the member—

DEPUTY PRESIDENT: I do not think you are in order, Mr. Kochukunju Pillai. I put a question and he is answering that. Let him finish.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): In regard to the withdrawal of a motion, whatever may be the grounds of withdrawal, ordinarily the Council grants that prayer and allows the motion to be withdrawn. The Council cannot be said to have committed itself to any opinion when it permitted the withdrawal.

DEPUTY PRESIDENT: Mr. M. Subrahmanya Pillai stated, when he withdrew the motion, that, on condition they agreed to the moving of the compromise, he would withdraw his motion.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): A withdrawal is a withdrawal whatever may be the conditions. Further, even in that view that the Council only said that they would permit the amendment as per the compromise to be moved. But they gave no assurance that it will be adopted. It is open to the Council to discuss the amendment on its merits and either to accept or reject it.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): When a motion is brought forward from the non-official side to draw the attention of the Government to certain matters and when the Government, after explaining matters, make certain observations, and in the light of those observations the motions on the non-official side are withdrawn, I should like to know if, in such cases, the member will think that the observations which emanated from the Government side have no responsibility whatever.

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MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): That is a hypothetical question.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): That is what is being done here every day.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): It is a hypothetical question and I am not bound to answer.

DEPUTY PRESIDENT: Even otherwise, you are not bound to answer. Even if it is not a hypothetical question, you are not bound to answer.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I submit therefore we have got two parties to consider. On the one hand, we have a party who have been prejudiced by the conduct of the two members co-opted by Government, and on the other hand there is the other party, who is seriously affected by it which is not represented in this Council. It is a question of choice between two views.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether he consulted the Nayar community when he accepted a compromise to Section 22 of the Nayar Regulation?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I did consult those people whom I thought I should consult, and from the result you will see that my estimate of the opinion of my community was correct and well-founded.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Will it not be similar here also?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): If it were so, I should not have stood up to oppose this motion. The very fact that a member who accepted the compromise now withdrew from it, shows that there was no consultation. The views of other people were not ascertained and the amendment was recklessly and incautiously placed before the Council. I must say that, though Mr. M. Subrahmanya Pillai has got a grievance if we did not pass the amendment, there is this fact that the question was discussed in this Council on its merits. He was heard and a conclusion was arrived at. On the other hand, there is the other party, which is a very large party, who are not represented in this Council, who have no voice in the deliberations of this Council and who will not get the advantage of a dispassionate discussion and deliberate conclusion arrived at if he did not re-open the question. Between the two evils, which is the one you should choose? I would, on these grounds, request the members to remove any prejudice that might have been formed in their minds in regard to the first motion of Mr. Subrahmanya Pillai. We have also to take into account the fact that the community suffers a very serious loss if the compromise is effected without their consent. If they consent to it, it is all right. If they have not consented to it, then, I submit, we are doing them a great injury. For, one of the fundamental rules of legislation is that we should not divest vested

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[Mr. Changanacherry K. Parameswaran Pillai.]

rights. Whatever may be the law which the Vellalas were following at one time, none of us were alive at that time; whether they were *makkathayees* or *marumakkathayees* we are not concerned with that. What we know is that they are followers of *marumakathayam* law now.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I know from the member whether we are only to act upon what we know ourselves or whether we may act upon records of the past?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Records also come within the purview of things that we know.

MR. M. SIVATANU PILLAI (*Tovala*): May I ask whether the member is prepared to concede that the Nanjanad Vellalas are following a qualified *marumakkathayam* system or is it his opinion that the community is following pure *marumakkathayam*?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I do not know whether it is pure or impure *marumakkathayam*? I understand only one kind of *marumakkathayam* law, and the Nanjanad Vellalas are following that law. I know that from the reported decisions of the High Court, and more than that I know nothing. For my purpose it is enough if I know that the community is following the *marumakkathayam* law.

Therefore I say that, so far as the followers of the *marumakkathayam* law are concerned, every member of the community has the same right as every other member of the community and if one member's right is encroached upon by another member, it is inequitable because it is a vested right.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Is not *Ukantudamai* also a vested right?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): No, it is not.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Have they not a right to insist on that right?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Yes, they have a right on certain conditions.

So the Council will be taking a serious responsibility in violating vested interests.

I do not mean to discuss the respective merits of *per capita* division, and individual partition or *thavazhi* partition or *per stirpes* division, because each has got its own merits. As far as the community is concerned, as a whole, the compromise is just as good as anything else. That is not the point before us. If the community accepts the compromise, it will not do any harm. But when the question before the Council is as to which of the parties should be preferred, the party that will suffer most, if its position is not accepted by the Council, should be preferred. For these reasons, I am unable to accept the amendment.

MR. K. NARAYANAN PANDALAY (*Ag. Chief Secretary to Government*): Sir, I do not wish to take up much of the time of the Council, especially

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at this late hour. My object in speaking a few words is only to make myself sure of the position which I should assume when the question is put to the vote. When the amendment was proposed, I hardly expected that there was need to discuss it at this great length. When we are considering a measure of social legislation affecting a particular community, our duty is to give the community a law which they want and not a law which, we think, is desirable on grounds of absolute justice or absolute wisdom. It is none of our business to see that due provision is made for safeguarding the interests of the children, women or old men of the community. It is our duty to ascertain what really is the kind of law that the community want, and then enact such law. If they want a law providing for their rights of inheritance in a particular way, it is our plain duty to give them that law. I see, from the discussions that we have had, that this fundamental principle of social legislation has not been sufficiently kept in view. But how are we to know the general sense of the community? Some members think that, since witnesses have been examined by the Enquiry Committee and documents have been inspected by the Select Committee, the opinion of the majority as seen from such examination and such inspection ought to be our authority, while some other members are of opinion that, when we have representatives of the community here in this Council, it is their opinion that ought to be accepted in preference to the opinions of the witnesses. We have found that we all know that the representatives of the community in this Council have changed their opinions since the commencement of the present session of the Council; and probably if the witnesses that were examined by the Enquiry Committee are re-examined, we might find that their opinions have also changed. Then what is the principle that ought to guide us in arriving at a conclusion in regard to the consensus of opinion in the community concerned? I, for my part, think that the only test that we can safely go by is the opinion of the representatives of the community in this Council. There is absolutely no reason why we should disregard the opinion of the members of the community who are here present and who, after mature consideration and consultation, have given us what their deliberate opinion on the matter is. They are the representatives of the community and we will be ignoring the fundamental principles of representative institutions if we decide that their opinion ought not to be accepted on the supposition that it is not the opinion of the community. It is therefore my desire to inform this House that the opinion of the majority of the representatives of the community in this Council ought to be accepted as the opinion of the community (*hear, hear*); and we ought, as in duty bound, to act upon that. If the House is disposed to argue in this view, we cannot have much difficulty in coming to a conclusion as to what we should do in the matter.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, as the official member in charge of the Bill, I beg to inform the House that the Government have no views of their own in regard to this matter. As Government is neutral, I leave the amendment to the vote of the House.

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MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I know from the Law Member his personal opinion?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : I am in favour of the amendment proposed.

MR. S. SUBRAHMANYA PILLAI (*Co-opted*) : Sir,

DEPUTY PRESIDENT : You have already spoken and hence you have no right to speak again.

MR. M. SIVATANU PILLAI (*Tovala*) : If I have understood the members correctly, there seems to be a certain misapprehension of the fact that the Nanjanad Vellalas are governed by pure *marumakkathayam* form of inheritance. I refute the statement by referring to what Mr. T. M. Chidambaratanu Pillai has said in the last Council when the general principles of the Bill were under discussion :—

"நாஞ்சிநாட்டு வெள்ளாளராகிய எங்களுடைய ஆசாரங்களெல்லாம் மக்கவழி ஆசாரங்கள்."

From the very face of it, there is no question of denying the fact that their system of inheritance is *makkathayam*, I am really sorry that some members on this side of the House have come to misunderstand *Nankudama* and *Ukantudama*. As regards *Ukantudama*, it is as much a vested right as right to the *tarwad* property to any one who is born in a *tarwad*. Every member has got a vested right for it in the same manner as a member of the family. As such, the provision in the amendment will go a great way to satisfy this particular community.

DEPUTY PRESIDENT: The question is that the following clause be substituted for Clause 31 in the Bill:—

"Every member of a tarwad shall be entitled on division to so much of the tarwad property as will fall to his or her share if

(1) One-half of the properties were divided per capita among all the members of the tarwad living at the time of division, and

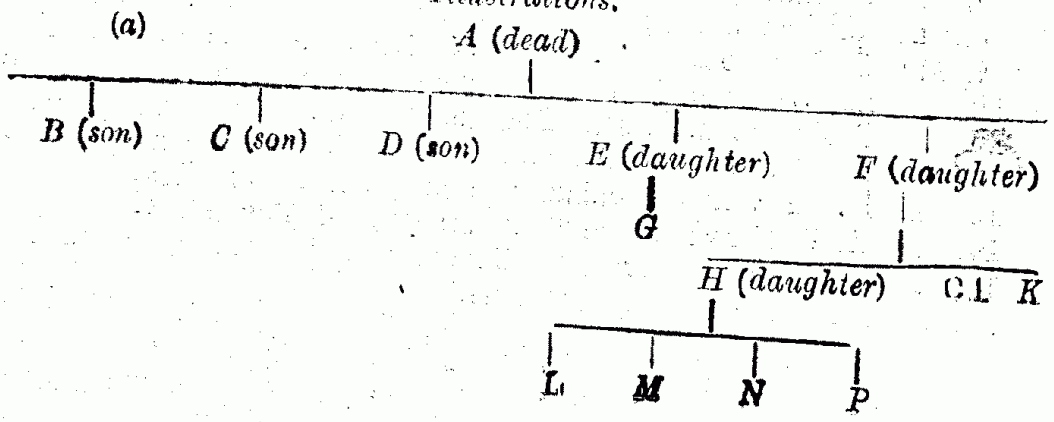
(2) the other half were divided per stirpes, i e., among the male children then living of the common ancestress and their sisters, the thavazhi of each daughter being entitled to the share of such daughter.

Provided that, if any daughter of the common ancestress were dead, the thavazhi of such daughter will take what such daughter would be entitled to if she were alive at the time of division.

Provided further that, if the common ancestress were alive at the time of division, she would be entitled to a share equal to that of a child of hers.

Illustrations.

(a)



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If, in a family composed as indicated in the above table, the value of the tarwad property were Rs. 24,000, one-half, i. e., Rs. 12,000, will be divided equally among B, C, D, E and F, each getting Rs. 2,400. The other half will be divided into twelve equal shares among B to P, each of them getting Rs. 1,000. Thus B, C and D will each get Rs. 3,400. The fourth share of Rs. 2,400 will be divided equally between E and G, and each of them will get Rs. 1,200 therefrom plus Rs. 1,000 being the share per capita or Rs. 2,200 in all. F and K will each get one-third of the fifth share of Rs. 2,400 or Rs. 800 therefrom plus Rs. 1,000 being the share per capita, or Rs. 1,800 in all. H, I, M, N, and P will each get one-fifth of Rs. 800 or Rs. 160 therefrom plus Rs. 1,000, being the share per capita, or Rs. 1,160 in all.

(*b*) *If, in illustration (a), A also were living, one-half will be divided into six shares, each getting Rs. 2,000, and the other half into thirteen shares. Thus A will get Rs. 2,000 plus one-thirteenth of Rs. 12,000.*

(*c*) *If, in illustration (a) A and C were dead, Rs. 12,000 will be divided into four shares and the other Rs, 12,000 into eleven shares; or B and D will each get Rs 3,000 plus one-eleventh of Rs. 12,000.*

(*b*) *If, in illustration (a), F were dead at the time of partition, K will be entitled to get one-half of Rs. 2,400 plus one-eleventh of Rs. 12,000.*

The motion was put to the vote and carried.

MR. C. P. TARAKAN (*Kunnatnad*): I demand a poll.

A poll was taken with the following result:

AYES—29.

1. Mr. I. C. Chacko
2. ,, R. Dhanukoti Pillai
3. ,, N. V. Joseph
4. ,, S. Gnana Joshua
5. ,, C. Kerala Varma Koil Tampuran
6. ,, C. P. Kochukunju Pillai.
7. ,, N. Kumaran.
8. Dr. N. Kunjan Pillai
9. Mr. X G. Lopez
10. ,, K. Madhavan Pillai
11. ,, K. C. Mammen Mappillai
12. ,, T. J. Matthew
13. ,, K. Narayanan Pandalay
14. ,, K. V. Natesa Aiyar
15. ,, N. Nilakanta Pillai
16. Mr. M. N. Pillai.
17. , A. J. John
18. ,, R. Padmanabhan
19. ,, G. Paramesvaran Pillai.
20. ,, S. Piraviperumal Pillai.
21. Mrs. M. Poonen Lukose
22. Mr. T. P. Ramasubba Aiyar
23. Rao Bahadur K. V. Rangaswami Aiyangar
24. Mr. M. Sivaramu Pillai.
25. ,, S. Subrahmanya Karayalar
26. ,, M. Subrahmanya Pillai.
27. ,, C. P. Tarakan.
28. ,, A. J. Van Ross
29. ,, M. Velu Pillai

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NOES—9.

1. Mr. A. K. Pillai.	6. Mr. Changanachery K. Paramesvaran Pillai.
2. ,, T. Kumara Pillai.	7. ,, G. Raman Menon.
3. ,, Kallur Narayana Pillai.	8. ,, K. Sivarama Panikkar.
4. ,, G. Narayana Pillai.	9. ,, S. Subrahmanya Pillai.
5. ,, K. P. Nilakanta Pillai.	

The motion was declared carried, 29 voting for and 9 against.

DEPUTY PRESIDENT: The question is that Clause 31 as amended do form part of the Bill.

The motion was put to the vote and carried.

Clause 31 as amended was added to the Bill.

Clause 32.

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*): I beg to move the following amendment:—

"*Delete Clause 32.*"

This clause provides for some additional share to the *Karanavan* of the family. It was in view of the request of the public to the Enquiry Committee that it recommended this. It was also done in imitation of a similar provision in the Nayar Regulation. According to the previous amendment that has been accepted by this House, there is an equitable distribution of *tarwad* property. Therefore I would move that Clause 32 of the Bill be deleted.

MR. M. VELU PILLAI (*Co-opted*): I second it.

DEPUTY PRESIDENT: The question is that Clause 32 of the Bill be deleted.

The motion was put to the vote and carried.

Clause 32 was accordingly deleted from the Bill.

Clause 33.

MR. M. SIVATANU PILLAI (*Tovala*): I beg to move the following be added as Clause 33:—

"*Property acquired by gift or bequest from the father or husband, whether before or after the commencement of this Regulation, shall, for the purposes of this Chapter, in the absence of evidence to the contrary, be treated as the tarwad property of the donees or devisees and of their tavazhi.*

MR. C. P. TARAKAN (*Kunnatnad*): I second it.

DEPUTY PRESIDENT: The question is that the following shall be added as Clause 33:—

"*Property acquired by gift or bequest from the father or husband, whether before or after the commencement of this Regulation, shall, for the purposes of this Chapter, in the absence of evidence to the contrary,*

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be treated as the tarwad property of the donees or devisees and of their thavazhi."

The motion was put to the vote and carried.

The new Clause 33 was then added to the Bill.

Clause 2.

MR. M. SIVATANU PILLLAI (*Tovala*) : I beg to move the following amendment :—

"*Add the following definitions* :—

3. '*Thavazhi of a female*' *means group of persons consisting of that female and her issues how-low-so-ever in that female line or such of that group as are alive.*

4. '*Thavazhi of a male*' *means the thavazhi of his mother.*

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*) : I second it.

DEPUTY PRESIDENT : The question is :—

"*Add the following definitions at the end of Clause 2.*

3. "*Thavazhi of a female*' *means group of persons consisting of that female and her issue how-low-so-ever in that female line or such of that group as are alive.*

4. "*Thavazhi of a male*" *means the thavazhi of his mother.*"

The motion was put to the vote and carried.

Clause 2 as amended was added to the Bill.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*) : Sir, I move that the Bill be read again in Council on a future date of which notice shall be given.

MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*): I second it.

The Council adjourned at 5-25 P. M. to meet again at 11-30 A. M. the next day.

T. P. RAMASUBBA AIYAR,
Secretary to the Legislative Council.

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